



# भारत का राजपत्र The Gazette of India

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सं. 43]	नई दिल्ली, अक्टूबर 16—अक्टूबर 22, 2016, शनिवार/ आश्विन 24—आश्विन 30, 1938
No. 43]	NEW DELHI, OCTOBER 16—OCTOBER 22, 2016, SATURDAY/ASVINA 24— ASVINA 30, 1938

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक् संकलन के रूप में रखा जा सके  
Separate Paging is given to this Part in order that it may be filed as a separate compilation

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भाग II—खण्ड 3—उप-खण्ड ( ii )  
PART II—Section 3—Sub-section (ii)

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भारत सरकार के मंत्रालयों ( रक्षा मंत्रालय को छोड़कर ) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं  
Statutory Orders and Notifications Issued by the Ministries of the Government of India  
(Other than the Ministry of Defence)

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विदेश मंत्रालय

( सी.पी.वी. प्रभाग )

नई दिल्ली, 26 सितम्बर, 2016

का.आ. 2127.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश ।

एतद्वारा, केंद्र सरकार भारत के प्रधान कौंसलावास, हैरात में श्री अजय कुमार रैणा, सहायक अनुभाग अधिकारी को दिनांक 26 सितम्बर, 2016 से सहायक कौंसुलर अधिकारी के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है ।

[सं. टी.-4330/01/2016]

प्रकाश चन्द, उप सचिव (कौंसुलर)

**MINISTRY OF EXTERNAL AFFAIRS**

(CPV DIVISION)

New Delhi, the 26th September, 2016

**S.O. 2127.**—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri Ajay Kumar Raina, Assistant Section Officer as Assistant Consular Officer in Consulate General of India, Herat to perform the Consular services with effect from 26<sup>th</sup> September, 2016.

[No. T-4330/01/2016]

PRAKASH CHAND, Dy. Secy. (Consular)

**कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय**

( कार्मिक और प्रशिक्षण विभाग )

नई दिल्ली, 6 अक्टूबर, 2016

**का.आ. 2128.**—केन्द्र सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम संख्या 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए हरियाणा राज्य सरकार, गृह विभाग, चंडीगढ़ की अधिसूचना सं. 20/3/2012-3-एचजीआई(II) दिनांक 30.09.2016 के माध्यम से प्राप्त सहमति से भारतीय दंड संहिता, 1860 (1860 का अधिनियम सं. 45) की धारा 148, 149, 186, 188, 307, 353, 395, 427, 436, 452, 120-बी तथा आयुध अधिनियम (1956 का अधिनियम सं. 104) की धारा 25/54/59 के अधीन पुलिस थाना अर्बन एस्टेट, रोहतक में आपराधिक षड्यंत्र, दंगा, लोक सेवक को सरकारी कार्य में बाधा पहुंचाने, आदेश की अवज्ञा करने, डकैती डालने, गृह अतिचार करने इत्यादि से संबंधित दर्ज एफआईआर सं. 65 दिनांक 20.02.2016 की जांच करने तथा उक्त मामले से सम्बद्ध तथा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न प्रासंगिक अन्य मामले की जांच करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का समस्त हरियाणा राज्य में विस्तार करती है।

[फा. सं. 228/37/2016-एवीडी-II]

प्रीति खन्ना, अवर सचिव

**MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS**

(Department of Personnel and Training)

New Delhi, the 6th October, 2016

**S.O. 2128.**—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Haryana, Home Department, Chandigarh vide Notification No. 20/3/2012-3HGI(II) dated 30.09.2016 hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Haryana for investigation of FIR No. 65 dated 20.02.2016 under sections 148, 149, 186, 188, 307, 353, 395, 427, 436, 452, 120-B of the Indian Penal Code, 1860 (Act No.45 of 1860), Section 25/54/59 of the Arms Act, (Act No. 104 of 1956), Pertaining to the offences of criminal conspiracy, rioting, obstructing public servant in discharge of public function, disobedience of order, attempt to murder, dacoity, house trespass etc. registered in Police Station Urban Estate, Rohtak and attempts, abetments and conspiracies in relation to or in connection with the offences mentioned above and any other offence or offences committed in course of the same transaction or arising out of the same facts.

[F.No. 228/37/2016-AVD-II]

PREETI KHANNA, Under Secy.

नई दिल्ली, 6 अक्टूबर, 2016

**का.आ. 2129.**—केन्द्र सरकार, एतद् द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम संख्या 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए हरियाणा राज्य सरकार, गृह विभाग, चंडीगढ़ की अधिसूचना सं. 20/3/2012-3-एचजीआई(III) दिनांक 30.09.2016 के माध्यम से प्राप्त सहमति से भारतीय दंड संहिता, 1860 (1860 का अधिनियम सं. 45) की धारा 148, 149, 186, 188, 283, 307, 332, 341, 353, 427, 436; राष्ट्रीय राजमार्ग अधिनियम, 1956 की धारा 8बी तथा आयुध अधिनियम (1956 का अधिनियम सं. 104) की धारा 25/54/59 के अधीन पुलिस थाना पी.जी.आई.एम.एस., रोहतक में आपराधिक षडयंत्र, दंगा, लोक सेवक को सरकारी कार्य में बाधा पहुंचाने, आदेश की अवज्ञा करने, हत्या के प्रयास करने, हमला करने इत्यादि से संबंधित दर्ज एफआईआर सं. 45 दिनांक 21.02.2016 की जांच करने तथा उक्त मामले से सम्बद्ध तथा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न प्रासंगिक अन्य मामले की जांच करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का समस्त हरियाणा राज्य में विस्तार करती है।

[फा. सं. 228/37/2016-एवीडी-II]

प्रीति खन्ना, अवर सचिव

New Delhi, the 6th October, 2016

**S.O. 2129.**— In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Haryana, Home Department, Chandigarh vide Notification No. 20/3/2012-3HGI(III) dated 30.09.2016, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Haryana for investigation of FIR No. 45 dated 21.02.2016 under sections 148, 149, 186, 188, 283, 307, 332, 341, 353, 427, 436 of the Indian Penal Code, 1860 (Act No. 45 of 1860), Sections 8B National Highways Acts, 1956 and Sections 25/54/59 of the Arms Act, (Act No. 104 of 1956), pertaining to the offences of criminal conspiracy, rioting, obstructing public servant in discharge of public function, disobedience of order, attempt to murder, assault etc. registered in Police Station PGIMS, Rohtak and attempts, abetments and conspiracies in relation to or in connection with the offences mentioned above and any other offence or offences committed in the course of the same transaction or arising out of the same facts.

[F.No. 228/37/2016-AVD-II]

PREETI KHANNA, Under Secy.

नई दिल्ली, 6 अक्टूबर, 2016

**का.आ. 2130.**—केन्द्र सरकार, एतद् द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम संख्या 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए हरियाणा राज्य सरकार, गृह विभाग, चंडीगढ़ की अधिसूचना सं. 20/3/2012-3एचजीआई(I) दिनांक 30.09.2016 के माध्यम से प्राप्त सहमति से भारतीय दंड संहिता, 1860 (1860 का अधिनियम सं. 45) की धारा 148, 149, 186, 188, 124-ए, 353, 450, 427, 436, 307, 395, 120-बी तथा आयुध अधिनियम (1956 का अधिनियम सं. 104) की धारा 25/54/59 के अधीन पुलिस थाना अर्बन एस्टेट, रोहतक (हरियाणा) में आपराधिक षडयंत्र, दंगा, लोक सेवक को सरकारी कार्य में बाधा पहुंचाने, आदेश की अवज्ञा करने, राजद्रोह करने, गृह अतिचार करने, हत्या के प्रयास करने, डकैती डालने, हमले से संबंधित दर्ज एफआईआर सं. 118 दिनांक 27.02.2016 की जांच करने तथा उक्त मामले से सम्बद्ध तथा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न प्रासंगिक अन्य मामलों की जांच करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का समस्त हरियाणा राज्य में विस्तार करती है।

[फा. सं. 228/37/2016-एवीडी-II]

प्रीति खन्ना, अवर सचिव

New Delhi, the 6th October, 2016

**S.O. 2130.**—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Haryana, Home Department, Chandigarh vide Notification No. 20/3/2012-3HGI(I) dated 30.09.2016 hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Haryana for investigation of FIR No. 118 dated 27.02.2016 under sections 148, 149, 186, 188, 124-A, 353, 450, 427, 436, 307, 395, 120-B of the Indian Penal Code, 1860 (Act No. 45 of 1860), Sections 25/54/59 of the Arms Act, (Act No. 104 of 1956), pertaining to the offences of criminal conspiracy, rioting, obstructing public servant in discharge of public function, disobedience of order, sedition, house trespass, attempt to murder, dacoity, assault etc. registered at Police Station Urban Estate, Rohtak (Haryana) and attempts, abetments and conspiracies in relation to or in connection with the offences mentioned above and any other offence or offences committed in course of the same transaction or arising out of the same facts.

[F.No. 228/37/2016-AVD-II]

PREETI KHANNA, Under Secy.

नई दिल्ली, 6 अक्टूबर, 2016

**का.आ. 2131.**—केन्द्र सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम संख्या 25) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए निम्नलिखित अपराधों को दिल्ली विशेष पुलिस स्थापना द्वारा जांच हेतु विनिर्दिष्ट करती है नामतः : -

- (क) राष्ट्रीय राजमार्ग अधिनियम, 1956 (1956 का अधिनियम सं. 48)
- (ख) उपर्युक्त अपराध एवं उसी संव्यवहार में किए गए अथवा उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध या अपराधों में किए गए प्रयास, दुष्प्रेरणाएं और षडयंत्र ।

[फा. सं. 228/37/2016-एवीडी-II]

प्रीति खन्ना, अवर सचिव

New Delhi, the 6th October, 2016

**S.O. 2131.**—In exercise of the powers conferred by section 3 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government hereby specifies the following offence to be investigated by the Delhi Special Police Establishment namely:

- (a) The National Highways Act, 1956 (Act No. 48 of 1956).
- (b) Attempts, abetments and conspiracies in relation to or in connection with the above mentioned offences and any other offence or offences committed in course of the same transaction or arising out of the same facts.

[F.No. 228/37/2016-AVD-II]

PREETI KHANNA, Under Secy.

### जल संसाधन, नदी विकास और गंगा संरक्षण मंत्रालय

नई दिल्ली, 4 अक्टूबर, 2016

**का.आ. 2132.**—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 (यथा संशोधित, 1987) के नियम 10 के उप-नियम (4) के अनुसरण में, केन्द्रीय जल आयोग, नई दिल्ली के निम्नलिखित कार्यालय जिसके 80 प्रतिशत से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है :

जल विज्ञानीय प्रेक्षण, केन्द्रीय जल आयोग, मैथन डैम, धनबाद ।

[फा. सं. ई-11011/16/2015-हिन्दी]

के. एम. एम. अलिमालिमगोति, आर्थिक सलाहकार एवं राजभाषा प्रभारी

**MINISTRY OF WATER RESOURCES, RIVER DEVELOPMENT AND GANGA REJUVENATION**

New Delhi, the 4th October, 2016

**S.O. 2132.**—In pursuance of Sub-rule (4) of Rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976 (as amended in 1987), the Central Government hereby notifies the following office of Central Water Commission, New Delhi, wherein more than 80% staff have acquired the working knowledge of Hindi :

Hydrological Observation Circle, Central Water Commission, Maithon Dam, Dhanbad.

[F. No. E-11011/16/2015-Hindi]

K. M. M. ALIMALMIGOTI, Economic Adviser and Incharge Official Language

**श्रम एवं रोजगार मंत्रालय**

नई दिल्ली, 13 अक्टूबर, 2016

**का.आ. 2133.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार विजया बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ सं. 8/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.10.2016 को प्राप्त हुआ था।

[सं. एल-39025/01/2010-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

**MINISTRY OF LABOUR AND EMPLOYMENT**

New Delhi, the 13th October, 2016

**S.O. 2133.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 8/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the Industrial Dispute between the management of Vijaya Bank and their workmen, received by the Central Government on 13.10.2016.

[No. L-39025/01/2010-IR (B-II)]

RAVI KUMAR, Desk Officer

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD****Present :** Sri Muralidhar Pradhan, Presiding OfficerDated the 15<sup>th</sup> day of March, 2016**INDUSTRIAL DISPUTE L.C. No. 8/2008****Between :**

Sri E. Srisailam,  
S/o Late Achaiah,  
R/o 18-4-15/1,  
Gandhinagar,  
Falknuma,  
Hyderabad

...Petitioner

**AND**

1. The Dy. General Manager,  
Vijaya Bank, M.G. Road,  
Trinity Circle,  
Bangalore – 560 001.

2. The Branch Manager,  
Vijaya Bank, Malakpet Branch,  
Hyderabad

...Respondents

#### Appearances:

For the Petitioner : M/s. G. Vidya Sagar, K. Udayasree, P. Sudheer Rao & D. Madhusudhan, Advocates

For the Respondent : M/s. E. Ajay Reddy, K. Ravi Kumar Chary, B. Venkat Reddy, Y. Nageswar &  
E. Jagadeeshwar Reddy, Advocates

#### AWARD

Sri E. Srisailam, the Petitioner has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents M/s. Singareni Collieries Company Ltd., which was registered in this Tribunal as LC No. 8/2008 and notices were issued to the Respondents.

2. The Petitioner has filed the present case with a prayer to declare the action of the Respondent in imposing the punishment of compulsory retirement vide proceedings dated 12.1.2004 as illegal and arbitrary and to set aside the same with a direction to the Respondents to reinstate the Petitioner into service with all consequential benefits.

3. The Respondent entered their appearance and filed counter.

4. This Tribunal held the domestic enquiry conducted by the Respondents as valid on 20.5.2013.

5. While the case was posted for recording of the evidence of the Petitioner, neither the Petitioner nor the Respondent attended the Court to participate in the hearing of the case. As this is a case of the year 2008, this Tribunal has given fair chance to both the parties to get ready for hearing of the case. In spite of that, both the parties failed to attend the Court to pursue their case, which clearly indicates that the dispute of the parties has already been settled. Hence, 'No Dispute' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 15<sup>th</sup> day of March, 2016.

MURALIDHAR PRADHAN, Presiding Officer

#### Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

#### Documents marked for the Petitioner

NIL

#### Documents marked for the Respondent

NIL

नई दिल्ली, 13 अक्टूबर, 2016

**का.आ. 2134.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सिंडीकेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ सं. 26/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.10.2016 को प्राप्त हुआ था।

[सं. एल-12012/4/2012-आईआर(बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 13th October, 2016

**S.O. 2134.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 26/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the Industrial Dispute between the management of Syndicate Bank and their workmen, received by the Central Government on 13.10.2016.

[No. L-12012/4/2012-IR (B-II)]

RAVI KUMAR, Desk Officer

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT  
HYDERABAD****Present :** Sri Muralidhar Pradhan, Presiding OfficerDated the 9<sup>th</sup> day of March, 2016**INDUSTRIAL DISPUTE No. I.D. 26/2013****Between :**Sri Sista Venkateshwara Rao,  
D.No.6-21, Lotus Land Mark,  
Ayodhyanager,  
Vijayawada – 003

...Petitioner

AND

The Regional Manager,  
Syndicate Bank,  
Regional Office,  
Adam Arcade, Moghulrajapuram,  
Vijayawada – 010

...Respondent

**Appearances :**

For the Petitioner : Party in person

For the Respondent : Sri Alluri Krishnam Raju, Advocate

**AWARD**

The Government of India, Ministry of Labour by its order No. L-12012/4/2012-IR(B-II) dated 22.1.2013 referred the following dispute between the management of Syndicate Bank and their workman under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal. The reference is,

**SCHEDULE**

“Whether the action of the management of Syndicate Bank, Zonal Office, Vijayawada in awarding the punishment of dismissal from bank’s service to Sri S. Venkateswara Rao, Ex-Clerk vide proceeding dated 15.2.2011 is proper, legal and justified? What relief the workman is entitled to?”

The reference is numbered in this Tribunal as I.D. No. 26/2013 and notices were issued to the parties concerned.

2. The case stands posted for filing of claim statement and documents by the Petitioner.
3. In spite of service of notices to the address given in the reference order, the Petitioner did not turn up. Several opportunities have been given to the Petitioner to attend the court to prosecute his case. But the Petitioner failed to attend this Tribunal which clearly indicates that the dispute of the Petitioner has already been settled and the Petitioner has nothing to claim. Hence, a ‘No dispute’ award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected by me on this the 9<sup>th</sup> day of March, 2016.

MURALIDHAR PRADHAN, Presiding Officer

**Appendix of evidence**

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

**Documents marked for the Petitioner**

NIL

**Documents marked for the Respondent**

NIL

नई दिल्ली, 17 अक्टूबर, 2016

**का.आ. 2135.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ सं. 23/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.10.2016 को प्राप्त हुआ था।

[सं. एल-12011/296/2003-आईआर(बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 17th October, 2016

**S.O. 2135.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 23/2014) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the Industrial Dispute between the management of Central Bank of India and their workmen, received by the Central Government on 13.10.2016.

[No. L-12011/296/2003-IR (B-II)]

RAVI KUMAR, Desk Officer

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.1), DHANBAD**

IN THE MATTER OF A REFERENCE U/S 10(1) (D) (2A) OF I.D. ACT, 1947

**Ref. No. 23 of 2014**

Employers in relation to the management of Central Bank of India, Ranchi

AND

Their workman

**Present:-** Shri Ranjan Kumar Saran, Presiding Officer**Appearances:**

For the Employers : Shri Kumar Vijayendra, Manager (Law)

For the workman : Shri B. Prasad, Rep.

State : Bihar

Industry : Banking

Dated. 24/08/2016

**AWARD**

By Order No.L-12011/296/2003 -IR -(B-II), dated 23/03/2004, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub -section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

**SCHEDULE**

“Whether non regularizing the services of S/Shri Sudama Sharma, Ranjit Sarkar, Babulal Pramanik and Shakti Kumar as regular employees of Bank of Central Bank of India is justified? If not , what relief the concerned workmen are entitled to?”

2. This case is received from the ministry of labour by CGIT No.2, Dhanbad on 23.04.2004, registered as Reference Case No. 46/04. After receipt of the case, both parties are noticed, the workman files their written statement on 25.05.2004. The management files their written statement on 01.10.2004. One witness each side examined. Document of workman is marked as W-1 to W-6 before the CGIT No.2.



3. As per order of the ministry , vide letter No. L-12011/296/2003 IR (B-II) dated 12/02/2014, this case is received from CGIT NO.2 on 12/03/2014, vide letter dated 11/03/2014 on transfer basis with direction to proceed from the stage at which it is transferred, then the case registered as Reference case No. 23/2014. Further evidence on behalf of the management taken.
4. The case of the workman is that Shri Sudama Sharma and Ranjeet Sarkar were appointed to discharge the duties of Driver, accordingly they drive the car which is allotted to Asstt. General manager and Regional Manager of Central Bank of India respectively on the monthly payment basis during the period of 9 AM to 6 PM and some times beyond that as per requirement.
5. Sri Babulal Pramanik and Shakti Kumar has been working as Canteen boy since 1982 from 9 AM to 6 PM on monthly basis of Rs. 1200 . All the above workman have been discharging their duties as per the instruction of Central Bank of India, but they have not enrolled not being paid wages as par with their permanent counterpart performing identical nature of duties. They were not paid bonus as per provision of payment of Bonus Act 1965.
6. It further submitted by the workman that considering their long span of service with the management of Central Bank of India, the workman represent the management for regularization of their service but no positive step was taken in this regard as there was no scope of regularization of their service, the above workmen approached the sponsoring Union for taking suitable steps for regularization of their service in Bank's subordinate cadre as per provision of law. Accordingly Industrial dispute arose.
7. On the other hand, the case of the management is that the Central Bank of India is a public sector undertaking as well as Banking companies, and Bank has to follow the employment procedure for selection and recruitment of the employee and no management is permitted to recruit/ regularize and observe an employee in the bank.
8. It is further submitted by the management that if any vacancy of driver are identified and sanctioned by the competent authority, such vacancy are required to be advertised and as per requisite qualifications and names of candidates to be sponsored by employment exchange and their age must be between 18 to 26 years and they must have experience of five years as driver.
9. The bank made available certain allowance to facilitate the top executive privately to engage a driver salary is paid by the said executive as his employer who draw the same as allowance from the bank. The above facility has been granted to those officers who are provided with the facility of Bank's car without driver.
10. Sri Sudama Sharma has been engaged by the Asstt. General Manager of Jamshepur Branch as his personal driver. But Sri Ranjeet Sarkar has been engaged by the Regional Manager, Ranchi as his personal Driver of Bank's Executive and they are getting their salaries from the said executives and they are not directly under the control and supervision of the Bank.
11. It is also submitted by the management that the Bank has no role to play for running the canteen in the branch. It is the canteen committee which is formed by the employees of the branch is having the responsibility for running of canteen in the Bank. Bank has not any control over the person concerned who were engaged by the canteen committee. Hence there is not employer-employee relationship exists between the person concerned working in the canteen and the management of Central Bank of India.
12. The short point to be decided in this reference is whether the driver engaged by the Bank officials, who are driving the Bank's vehicle, for the bank Officers will be regularised or not.
13. The workmen submitted that he is giving service to the bank by driving their vehicles and also getting wages through bank and filed the bank's vouchers. Moreover from the documents filed by the workman, that bank people has settle guide lines for selection and selected them to drive bank vehicles.
14. The workman also filed the photo copy of log book. The bank management though accepted that the workman was driving the vehicle but argued that they were driving their personal vehicle but the bank is paying them wages since long time.
15. As per Evidence in chief of MW-1, Sri Ranjeet Sarkar as per the circular of the Bank , has been appointed by the Bank Management on 10.12.2007 as he completed his 15 years of service as Ranjeet Sarkar but workman Sudama Sharma had not fulfilled the conditions of the employment , such as not completed the 15 years of services and 5 years Driving experience . But he accepts that the vehicle driven by Sudama Sharma belongs to Central Bank which was allotted to the AGM of the Bank .
16. The MW-1 also admitted that the petitioner Sudama Sharma was senior to Ranjeet Sarkar. He has also said that Ranjeet Sarkar withdrew his case as he was regularized as permanent Driver. But Sudama Sharma not granted the permanent status and subsequently removed .

17. As per seniority list of personal Driver marked as “ X “ which is identified by MW-1. that Sri Sudama Sharma numbered as Sl. No. 5 is senior from Ranjeet Sarkar Sl. No. 8.
18. As per letter No. JSR /PRS/ 02-03/405 the representation of Sudama Sharma is recommended by Sr. Manager to Zonal Office with remarks that “Sri Sudama Sharma is dutiful, Sincere and hard working while performing his duties, he is recommend to absorbed in Bank’s permanent staff cadre.” He is also allowed festival advance, as well as uniform and shoes. As such Perusal of all voluminous payment voucher other document of workman it is very much material, and it goes in favour of workman.
19. It also noticed that of Sri Ranjeet Sarkar is regularized as permanent driver and his appointment letter is also filed by the workman representative. It is also stated in argument notes of workman.
20. As per Ext ‘X’ ,it a Certificate of Chief Manager dated 30.4.95 , 07.02.95 , 22.05.2001 , 24.4.2004 & 11.04.2007 proves that he works regularly from 1990 to 2007 and it is certified that Sri Sudama Sharma has been driving the Chief Manager's vehicles since 1990 under various Regional Managers, chief Managers and Asstt. General Managers.
21. It is also proved , that the owner of the vehicles is Central Bank of India. as the certificates of many Regional Manager/Chief Managers , in which he recommend to regularise Sri Sudama Sharma as he is working from last 17 years, they have also certified that he is very honest workman and he may be observed as regular basis.
22. As per circular of Bank No.RC/HRD/2011-12/995 dated 16/11/2011 in which the temprrary workman/casual have put in minimum 45 days service during 12 month as temporary sub staff and present age should not more than 45 years. Sri Sudama Sharma fulfill the creteria.
23. On Perusal of all voluminous document of workman it is clear that the workman Sudama Sharma has just claim, as similar persons have already regularized by Bank. Hence bank management ought to regularise Sri Sudama Sharma.
24. On the other hand the case of Babulal Pramanik and Shakti Kumar Canteen boy Is concerned, one land marked **judgement of Supreme Court Primal Chandra Raha & ors Vs. Life Insurance Corporation & ors. Published in 29 March, 1995 is quoted below:-**

*“In the circumstances , we are of the view that the canteen has been a part of the establishment of the corporation. The canteen Committee, the corporation society of the employees and the contractors engaged from time to time are in reality, the agencies of the corporation and are only vell between the corporation and the canteen workers, we have, therefore no hesitation in coming to the conclusion that the canteen workers are in fact the employees of the corporation.”*

25. And one another case of Supreme Court , Harjindar Singh Vs Punjab state warehouse Corp.

Para 1.3 This Court has a duty to interpret statutes with social welfare benefits in such a way as to further the statutory goal and not a furstrate it. In doing so this Court should make an effort to protect the right of weaker sections of the society in view of the clear constitutional mandate. Thus social justice , the very signature tune of our Constitution and being deeply embedded in our Constitutional ethos in a way is the arch of the Constitution which ensures rights of the common man to be interpreted in a meaningful way so that life can be lived with human dignity. ( Para 13 and 14625 G-H 626 A-B).

26. Considering the facts and circumstances of this case, I hold that the action of the management of Central Bank Of India in not regularizing , Sh. Sudama Sharma is not justified. Therefore the management is directed to regularise Sri Sudama Sharma against the regular vacant post of driver or peon w.e.f. 10.12.2007 or from which Ranjeet Sarkar is regularised, but without back wages and Sri Babulal Pramanik and Shakti Kumar be regularise as casul worker or daily wager employee so that they be saved from starvation within 30 days from the publication of the award. As otherwise the workman will claim full wages from the 31<sup>st</sup> day of publication of award.

This is may award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 17 अक्तूबर, 2016

**का.आ. 2136.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ बडोदा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ सं. 25/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.10.2016 को प्राप्त हुआ था।

[सं. एल-12012/210/2003-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 17th October, 2016

**S.O. 2136.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 25/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the Industrial Dispute between the management of Bank of Baroda and their workmen, received by the Central Government on 13.10.2016.

[No. L-12012/210/2003-IR (B-II)]

RAVI KUMAR, Desk Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

**PRESENT :** RAKESH KUMAR, Presiding Officer

**I.D. No. 25/2004**

Ref. No. L-12012/210/2003-IR(B-II) dated 30.01.2004

#### BETWEEN :

Sri Jiya Lal S/o Sh. Badri Prasad  
Village Barai Post Kunda  
Pratapgarh (U.P.)

#### AND

1. The Regional Manager  
Bank of Baroda  
21A/26A, Banerjee Building, LB. Shastri Marg, Allahabad

#### AWARD

1 By order No. L-12012/210/2003-IR(B-II) dated 30.01.2004 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Sri Jiya Lal S/o Sri Badri Prasad, Pratapgarh and the Regional Manager, Bank of Baroda, Allahabad for adjudication.

2. The reference under adjudication is:

“WHETHER THE ACTION OF THE MANAGEMENT OF BANK OF BARODA, THROUGH ITS BRANCH MANAGER, KUNDA BRANCH IN TERMINATING THE SERVICES OF SRI JIYA LAL S/O SRI BADRI PRASAD W.E.F. 05.08.2002 IS LEGAL AND JUSTIFIED? IF NOT, TO WHAT RELIEF IS HE ENTITLED?”

3. Initially the dispute was referred to the CGIT, Jabalpur. The file alongwith letter C-6 dated 7.05.2004 was received in this court on 13.05.2004.

4. As per the claim statement, annexed with affidavit A1-3, the workman has stated in brief that he has worked continuously on the post of Peon at the Bank of Baroda, Kunda branch since 11.09.2000 to 4.8.2002, in every calander year he had worked for more than 240 days, but the opposite party did not provide him any payment voucher, leave card, attendance card etc., neither his signature was obtained on the attendance register. It is alleged that payment was made by the Branch Manager through “Hand Receipt” either on monthly basis or fortnightly as per his convenience. Request was made by the workman for salary payment slip, attendance card, employment certificate etc. his name was not entered in the attendance register and when he reiterated his request, he was removed from job on 5.8.2002 and was not reinstated although he went to the office regularly.

5. The petitioner has asserted that as Peon of the branch he was asked to keep the vouchers at proper place, as per the directions of the bank officers, he was also required to open the racks and “Methodix” was also operated by him, he was also asked to perform the duty of “Waterman”, daily he was sent to obtain photo copies of the bank documents, currency notes were also sewed by him on the orders of Branch Manager, several ledgers and account documents were also handled by him. It has also been stressed that the petitioner was after asked to accompany the Cashier for depositing Rs.20-25 lakhs in the Bank of Baroda, Pratapgarh Branch.

6. The workman has further stated that permanent nature of work was being regularly performed and after his removal from service, the aforesaid work is being taken from Sri Shyam Lal and Sri Anil, both these persons are of the same category. The petitioner has submitted that there was no complaint against him, neither any charge sheet was issued, his carrer is blotless; before his removal he was being paid Rs.50/- per day, neither any show cause notice was

issued nor retrenchment compensation was given. The petitioner has asserted that he belongs to Schedule Caste category and sub caste is “Dhobi”, he and his family is very poor and due to his poverty and unemployment the management has exploited him illegally and has adopted unfair labour practice. Violation of relevant provisions of I.D. Act has been alleged. The workman has submitted that despite his frequent requests the opposite party has not paid any attention. With the aforesaid pleadings the workman has requested to declare the order dated 5.8.2002 whereby he had been removed from service, as illegal and improper. Request for his reinstatement alongwith back wages and consequential benefits has also been made.

7. The opposite party/management in its written statement A2-13, has denied the allegations leveled in the claim statement. The opposite party has submitted that the Branch Manager, Kunda has got no power to appoint any person, therefore, the question of appointment of workman Sri Jiyalal does not arise.

8. The opposite party has further stated that the appointment in bank is governed certain statutory Rules and guidelines issued by the Govt. of India. The appointment of “Sub Staff Cadre” is to be made through Employment Exchange, vacancies have to be notified to the Employment Exchange and these guidelines are mandatory. The petitioner, Sri Jiyalal was never sponsored by the Employment Exchange, he is not a bonafide employee of the bank as such he is not entitled to employment in the bank. The opposite party has asserted that no cause of action arose on 05.08.2002, the reference is misconceived and wrong, and is liable to be dismissed.

9. The opposite party has stressed that the petitioner Sri Jiyalal was not appointed on the post of Peon w.e.f. 11.9.2000, he was engaged by the Branch Manager in his personal capacity for intermittent casual nature of labour work on fixed daily rate basis for a period of about 84 days in all between 4.10.2000 to 24.5.2002. Whenever any intermittent casual nature of labour work arose, the Branch Manager was free to get it done on market labour on agreed labour charge basis. The opposite party has emphasized that the petitioner had never worked for 240 days at all, the claim statement is wrong and misconceived, since the applicant was not an employee of the bank therefore the question of issuing any salary slip or leave card does not arise, labour charges were paid to him as and when due on daily rate basis. It has also been pleaded that job for which the applicant was engaged finished therefore, the question of his engagement after 24.5.2002 did not arise.

10. The opposite party has stressed that in the Kunda branch of the bank two sub staff viz. Sri Ram Lakhan and Sri Jai Chandra Gupta and one temporary Peon Sri Jagbeer Singh have been working, this strength is adequate for smooth functioning of the branch. Therefore, there was no necessity to appoint the applicant. Moreover Sri Shyam Lal and Sri Anil have never been appointed in the bank. The opposite party has submitted that no provision of I.D. Act., has ever been violated, the action of the bank is fully justified and fair in all means. The management has pleaded that the petitioner is not entitled to any relief.

11. With strong denial of the facts mentioned in the written statement while reiterating the pleas taken in the claim statement, the workman has filed rejoinder A1-14.

12. The management has filed certain documents as per list C-17 dated 01.03.2005.

13. The workman Sri Jiyalal has filed his affidavit A1-23 in evidence. He has been thoroughly cross examined on behalf of the management. The opposite party has filed an affidavit M-26 of Sri Jai Prakash Verma, Sr.Branch Manager. Learned AR for the workman has comprehensively cross examined the management witness.

14. Arguments of Learned ARs of both the parties have been heard at length. Record has been perused thoroughly.

15. Learned AR for the workman has emphasized that the petitioner had worked in every calendar year for more than 240 days, since 11.9.2000 to 4.8.2002, no payment voucher etc. was provided to him neither the bank authorities gave any salary slip, attendance card employment certificate etc, his services were retrenched illegally, without giving any prior notice etc, although work was regularly performed by him. Learned AR for the management refuting this argument vehemently, has submitted that guidelines issued by the Govt. of India have to be followed, the Branch Manager, Kunda has got no power to appoint any person, only intermittent nature of casual work was taken by the branch manager in his personal capacity for a total period of 84 days only, on fixed daily rate basis. The management has asserted that the petitioner had never worked for 240 days at all.

16. Learned AR for the workman has relied upon the following rulings;

1. (2008)10 SCC-698 Hon'ble SC, Dy. Manager New India Assurance Co. Ltd. and A.Shankar Lingam.
2. 2007(113) FLR-880 Hon'ble SC National Thermal Power Corpn. V/s Jawahar Lal
3. (2002) 2 UPLBC-1475, Hon'ble Allahabad High Court, Rajya Krishi Udpadan Mandi Parishad Vs PO, Industrial Tribunal, Meerut
4. 1999 (81) FLR-746 Hon'ble SC, Shamishta Dube and City Board, Etawah and another

5. 1996 (74) FLR-2063- Hon'ble SC, Central Bank of India vs S.Satyam
6. 2001 (90) FLR 744, Hon'ble Rajasthan High Court, State v/s Harchand.

Learned AR for the management asserts that the aforesaid rulings do not apply to the present case.

17. Learned AR for the management has relied upon the principle laid down by Hon'ble Supreme Court in 2002(93)FLR, The range Forest Officer and S.T Hadimani, page 179. Learned AR for the workman submits that this pronouncement does not apply to the matter in issue.

18. The then Hon'ble Judge of this Tribunal has directed the opposite party vide order dated 8.8.2006, to file all the payment vouchers with respect to the payment to the workman for the period w.e.f.11.9.2000 to 4.8.2002 alongwith affidavit, clearly stating that there remains no voucher left out. In compliance there of, Sri Surendra Kumar Jaitley, Branch Manager, Kunda Branch, Bank of Baroda has filed an affidavit A-17 dated 22.9.2006 alongwith list of documents C-18 enclosing therewith verified photo copies of the vouchers dated 4.10.2000 and 21.10.2000.

19. The petitioner in his cross examination dated 21.7.2009 has asserted that no vacancy was advertised on 11.9.2000, no test was conducted neither he was interviewed; more over no appointment letter was issued to him. He has also stated that no document pertaining to the so called work performed by him as Peon from 11.8.2000 to 4.8.2000 has been filed by him. The management has filed affidavit M-26 of Sri JP Verma, Sr.Branch Manaer in its evidence. He has elaborated in his cross examination dated 17.1.2011 that details regarding payment made to the workman have been endorsed in the bank document, he has mentioned list C-17 and C-18 already filed in the court.

20. Hon'ble Supreme Court in 2002(93) FLR, The Range Forest Officer vs ST Hadimani page 179, has observed that the filing of an affidavit by the workman in his favour, can not be regarded as sufficient evidence for any Court/Tribunal to come to the conclusion that a workman had in fact worked for 240 days in a year, it is to be determined on the basis of cogent evidence that the workman had worked for more than 240 days in the year preceding his termination. Hon'ble Supreme Court has further emphasized that the Tribunal ( in the matter decided by Hon'ble Court) was not right in placing the onus on the management, no proof of receipt of salary or wages for 240 days or order or record of appointment or engagement for this period was produced by the workman.

21. After having heard intellect and comprehensive arguments advanced by both the learned ARs it is inferred after prudent analysis of the evidence and record available before this Tribunal, keeping in view the aforesaid prouncements of Hon'ble Supreme Court and Hon'ble High Court, that it can not be ascertained that the workman had worked for more than 240 days during the period in question. The impugned order passed by the management referred in the Schedule, is neither illegal nor justified. Therefore, the workman is not entitled to any relief.

22. Award as above.

LUCKNOW

20<sup>th</sup> Sept., 2016

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 17 अक्टूबर, 2016

**का.आ. 2137.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूको बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ सं. 49/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 13.10.2016 को प्राप्त हुआ था।

[सं. एल-12011/117/2006-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 17th October, 2016

**S.O. 2137.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 49/2013) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the Industrial Dispute between the management of UCO Bank and their workmen, received by the Central Government on 13.10.2016.

[No. L-12011/117/2006-IR (B-II)]

RAVI KUMAR, Desk Officer

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.1), DHANBAD**

IN THE MATTER OF A REFERENCE U/S 10(1) (D) (2A) OF I.D. ACT, 1947

**Ref. No. 49 of 2013**

Employers in relation to the management of UCO Bank, R.O., Ranchi

AND

Their workman

**Present:-** Shri Ranjan Kumar Saran, Presiding Officer**Appearances:**

For the Employers : Shri Md. H. Ansari, Advocate

For the workman : Shri B. Prasad, Rep.

State : Bihar

Industry : Banking

Dated. 18/07/2016

**AWARD**

By Order No.L-12011/117/2006 -IR -(B-II), dated 01/05/2007, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

**SCHEDULE**

“Whether the action of the management of UCO Bank regional Office, Ranchi in discharging from service of Shri Vijay Kumar Singh ALPMO with superannuation benefits and without disqualification from future employment is legal and or justified ? If not, what Shri Vijay Kumar Singh is entitled ?”

2. This case is received from the ministry of labour by CGIT No.2, Dhanbad on 09.07.2007 registered as Reference Case No. 22/07. After receipt of the case, both parties are noticed, the workman files their written statement on 08.08.2007. The management files their written statement on 29.06.2008. One witness examined on behalf of the Management and document of Management is also marked as M-1 to M-10 before the CGIT No.2.on preliminary point on the point of domestic enquiry.
3. Thereafter argument on Preliminary point held at CGIT No.2. domestic enquiry held as fair and proper by order dated 16/08/2011.
4. As per order by the ministry , vide letter No. L-12011/117/2006 IR (B-II) dated 03/10/2013, this case is received from CGIT NO.2 on 12/03/2014, vide letter no. LCT-1/2013/108 dated 20/11/2013 on transfer basis with direction to proceed from the stage at which it is transferred, then case registered as Reference case No. 49/2013 before the CGIT No.1, Dhanbad.
5. The case of the workman is that Sri Vijay Kumar Singh was appointed as peon in service of the Bank on 08.10.1982, then he was promoted as clerk on 01.02.1985 on the basis of test conducted by the Bank. The workman was transferred at Bhuli Branch in Dec. 1989. Then he was selected as ALPMO and was posted at ISL Extension Counter of Jharia Branch w.e.f. 06.01.2003 without any complaint against him on any occasion. But during the year 2003 some fraud took place which came to the notice of the management in 2004 . The senior Manager UCO Bank Jharia Branch lodged an FIR with the name of Sushil Singh as main and sole accused. But vide order dated 20.05.2004 the workman was placed under suspension and served a charge sheet without any show cause notice or any explanation letter.
6. After receipt of the charge sheet the workman submitted his reply and explained the correct position. The disciplinary Authority was not satisfied with the reply of the workman and decided to hold domestic enquiry . and after enquiry submits his enquiry report
7. It is also submitted by the workman that the Dy. General Manager in gross violation of the principle of natural justice awarded the punishment of “Discharge from the service of the Bank with superannuation benefits and without disqualification of future employment.” Is neither legal nor justified . The workman is innocent . he did not commit any misconduct and is simply a victim of the circumstances. Accordingly the Industrial dispute arose.

8. On the other hand the case of the management that the workman was served with the charge sheet and suspension order dated 20/05/2004 for having committed certain irregularities while officiating as special Assistant and functioning as in-charge ISL Extension Counter, Jharia Branch. The irregularities included inter alia passing a cheque No 443921 dated 3/05/2003 and cheque no443922 dated 24/05/2003 for Rs. 3 lacs and Rs. 7 lacs respectively. Both the cheques were passed without proper verification of signature of the A/C holder Smt Meena Singh, which did not tally and without enquiring the genuineness of payment of such high value cheques, resulting thereby in fraudulent withdrawal of Rs. 20 lacs in total from SB A/C 1169/7 of Smt Meena Singh at the said Extension Counter on different dates.

9. It is further submitted by the management that considering all the above aspects the disciplinary authority while agreeing with the findings of enquiry officer, judiciously applying his mind and in exercise of power, conferred upon him by the competent authority of UCO Bank passed the order with effect from the date of order in terms of Bipartite settlement dated 19/10/1966 as "Discharged from service with superannuation benefits i.e pension, Provident fund and gratuity as would be due otherwise under the rules or regulations prevailing and without disqualification from future employment. It is settled law that the concurrent proceedings in the criminal case and the departmental proceedings operate in district and different judicial Areas.

10. The workman preferred an appeal challenging the final order of the disciplinary authority dated 22.06.2005. The Appellate authority vide order dated 22.03.2006 rejected the appeal as the order under appeal had been passed by the authority of incomplete jurisdiction without following the prescribed norms as well as principle of natural justice.

11. In this case the workman has been superannuated prematurely with all retirement benefits and not denying his future employment on the ground of irregularities. The enquiry held fair and proper as the workman participated in the enquiry. But the workman says that he was not involved in the fraud and some other was involved.

12. The enquiry Officer found in charge No.1 proved and other charge not proved and 3<sup>rd</sup> partially proved. The competent authority i.e disciplinary authority has all power to change, modify the enquiry officers finding. In the case in hand there was loss of Bank of Rs. 20 Lacs, Opportunity was given to the workman to keep his stand.

13. The domestic enquiry is fair and proper in order dated 16/08/2011, this was not challenging in any court. It means this order is final. Therefore this Tribunal feels not to interfere with the findings of the Bank.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 17 अक्टूबर, 2016

**का.आ. 2138.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार लाइफ इन्श्युरेन्स कारपोरेशन ऑफ इंडिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ सं. 179/1994) को प्रकाशित करती है जो केन्द्रीय सरकार को 13.10.2016 को प्राप्त हुआ था।

[सं. एल-17012/40/1993-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 17th October, 2016

**S.O. 2138.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 179/1994) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the Industrial Dispute between the management of LIC of India and their workmen, received by the Central Government on 13.10.2016.

[No. L-17012/40/1993-IR (B-II)]

RAVI KUMAR, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.1), DHANBAD

IN THE MATTER OF REFERENCE U/S 10(1) (D) (2A) OF I.D. ACT, 1947

Ref. No. 179/1994

Employers in relation to the management of LIC of India

AND

Their workman

**Present:-** Shri R. K. Saran, Presiding Officer**Appearances:**

For the Employers : None

For the workman : None

State : Jhaarkhand

Industry : LIC

Dated. 17/08/2016

**AWARD**

By order No. L-17012 /40/1993-IR(B-II) dated 14/07/1994, the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub –section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

**SCHEDULE**

“Whether the demand of Insurance Employees Association Patna division on the management of Life Insurance Corporation of India , Patna for the provision of employment on compassionate grounds to the son ( Shri Mukesh Kumar) of the deceased employee ( Shri Mukesh Kumar) of the deceased employee shri Akhileshwari Prasad Sinha, Assistant is justified/ If so, what relief is Shri mukesh kumar entitled to?”

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 17 अक्टूबर, 2016

**का.आ. 2139.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 35/2009) को प्रकाशित करती है जो केन्द्रीय सरकार को 13.10.2016 को प्राप्त हुआ था।

[सं. एल-12011/118/2008-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 17th October, 2016

**S.O. 2139.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 35/2009) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the management of Bank of India and their workmen, received by the Central Government on 13.10.2016.

[No. L-12011/118/2008-IR (B-II)]

RAVI KUMAR, Desk Officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
JABALPUR**

**NO. CGIT/LC/R/35/2009**

General Secretary,  
Prathadit Karamchari Kalyan Manch,  
F-1, Tripti Vihar, Opp. Engineering College,  
Sawer Road, Ujjain (MP)

...Workman/Union

**Versus**



The Branch Manager,  
Bank of India, Ojhar  
Distt. Badwani (MP)

...Management

### AWARD

Passed on this 22<sup>nd</sup> day of August 2016

1. As per letter dated 24-2-09 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12011/118/2008/IR(B-II). The dispute under reference relates to:

“Whether Shri Vinod Rathore is entitled for payment of difference of wages w.e.f. 25-4-0 to 25-11-05 as per the Bipartite Settlement? If so, what relief the workman is entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party submitted statement of claim. Case of Ist party is that he was engaged as peon at Ojhar branch of the Bank on 25-4-01. He was working 8 hours in a day. He worked more than 240 days in a year. His service record was satisfactory. Workman was paid wages Rs.10 per day which was increased to Rs.50,60 per day. Branch Manager was reimbursed the wages paid to him. His services were terminated in violation of Section 25-F of ID Act. He was not served with notice, retrenchment compensation was not paid to him. He raised dispute about termination of his services by separate reference. That from 25-4-01 to 25-11-05, he was working in the Bank. The Bipartite settlement are applicable. He is entitled to scale wages as per 7<sup>th</sup> & 8<sup>th</sup> bipartite settlement at Rs.2750 to 5850, 4060 to 7560. That State Bank of India and Karur Bank, Bank of Maharashtra have paid arrears of the pay scale wages to daily wage employees. That violation of bipartite settlement is punishable under Section 29 of ID Act. On such ground, workman claims difference of wages for the period 25-4-01 to 25-11-05. He also prays for interest on amount of arrears.

3. 2<sup>nd</sup> party filed Written Statement opposing claim of workman. That claimant is not member of the Union has no locus to raise dispute. 2<sup>nd</sup> party denies employer employee relationship. No ID exists between claimant and 2<sup>nd</sup> party Bank. 2<sup>nd</sup> party further submits that claimant is not covered as workman under Section 2(s) of ID Act. That employment of any person in industry is proceeded by appointment followed by written test, interview, selection. Workman was not appointed following recruitment rules. Ist party has not disclosed nothing regarding his employment. He has not produced documents in support of his claim. Workman had not completed 240 days working in any calendar year. It is denied that Branch Manager Surpa.P.Mishra appointed workman on 25-4-01 on regular basis. It is denied that workman was paid wages Rs.40-60 per day.

4. 2<sup>nd</sup> party further contends that Branch Manager in order to ensure smooth customer service and whenever there is a temporary increase in the work of casual nature and where the regular sub staff are on leave from duties are required to engage any persons from the locality, without going into the ensuring the eligibility criteria etc. such persons engaged are compensated by fair amount.. Branch Manager has no authority to appoint any staff. That for appointment in Bank, reservation in SC, ST, OBC is mandatory. The candidates are to be sponsored through Employment Exchange, such proceeding was not followed. Casual employees engaged by Branch Manager, wages were reimbursed to Branch Manager under Head of Miscellaneous charges. Daily wager has no right to hold post. 2<sup>nd</sup> party reiterates that the reference is not tenable as there was no employer employee relationship. Ist party is not covered as workman. Sastry Award doesnot deal with payment of scale wages to temporary sub staff. Claimant never employed by the Bank in any cadre, on such ground 2<sup>nd</sup> party prays that reference be answered in its favour.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether Shri Vinod Rathore is entitled for payment of difference of wages w.e.f. 25-4-0 to 25-11-05 as per the Bipartite Settlement?	In Negative
(ii) If not, what relief the workman is entitled to?”	Workman is not entitled to any relief.

### REASONS

6. Workman filed affidavit of his evidence. He has stated that he was engaged as peon on 25-4-01. On 25-11-05, his services were terminated without notice, retrenchment compensation was not paid to him. That he is entitled to difference of scale wages. From his evidence, any documents are not admitted in evidence. In his cross-examination, workman denies that his signatures were not obtained on any of the vouchers. He denies that he had taken vouchers

from Daftary and put his signatures on it. In his further cross, workman says from bills of Kerosene and Petrol, he was paid wages. The voucher was not written in his name. generator in the branch was operated on kerosene/ petrol. Kerosene/ petrol were purchased as per need. The amount of purchase of petrol was paid to him. He explained that amount of additional vouchers was paid to him. After Ghasiram was dismissed in n2000, he was engaged in his place. He claims ignorance whether Shabir was part time employee. Shri Surya Prakash Verma was Branch Manager. Workman was running tea stall, was acquainted with Branch Manager. Because of his acquaintance, he was engaged on daily wages. Branch Manager had taken his interview without giving letter for interview. Appointment letter was not given to him. He had not received any order that he was appointed in vacant post.

7. Management's witness Sjhri Rajnish Sonkar filed affidavit supporting contentions in Written Statement that workman was not appointed against vacant post, he had not completed 240 days continuous working in any calendar year. In his cross-examination, management's witness says before engaging workman, any kind of recruitment process was not followed. Permission of Controlling Authority was not obtained. Attendance Register was not maintained. Name of workman was not written on vouchers. Any record about working of casual employees is not available in the Bank. From information received from other staff members, he has stated in his affidavit that workman not worked for 240 days. In his cross-examination, management's witness admitted documents Exhibit W-1 to W-4. Reply submitted before AL. claim of workman is not admitted under those documents.

8. Management has produced documents Exhibit M-1 to M-5 rules about recruitment of sub staff. Ist party workman was not engaged following recruitment rules. Ist party workman had not produced 7<sup>th</sup> & 8<sup>th</sup> Bipartite settlement. Any provision under Bipartite Settlement or Desai Award has not brought to my notice by Shri Ram Nagwanshi that casual labours are entitled to scale wages. Therefore claim of workman is not substantiated by evidence. For above reasons, I record my finding in Point No.1 in Negative.

9. In the result, award is passed as under:-

(1) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 17 अक्टूबर, 2016

**का.आ. 2140.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार लाइफ इन्श्युरेन्स कारपोरेशन ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ सं. 180/1994) को प्रकाशित करती है जो केन्द्रीय सरकार को 13.10.2016 को प्राप्त हुआ था।

[सं. एल-17012/44/1993-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 17th October, 2016

**S.O. 2140.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 180/1994) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the Industrial Dispute between the management of LIC of India and their workmen, received by the Central Government on 13.10.2016.

[No. L-17012/44/1993-IR (B-II)]

RAVI KUMAR, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.1), DHANBAD

IN THE MATTER OF REFERENCE U/S 10(1) (D) (2A) OF I.D. ACT, 1947

**Ref. No. 180/1994**

Employers in relation to the management of LIC of India

AND

Their workman

**Present:-** Shri R. K. Saran, Presiding Officer

**Appearances:**

For the Employers : Shri Dipak Sah, Advocate

For the workman : None

State : Bihar

Industry : LIC

Dated. 25/08/2016

**AWARD**

By order No. L-17012 /44/1993-IR(B-2) dated 14/26.07.1994, the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub –section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

**SCHEDULE**

“Whether the demand of the insurance Employees’s Assn., Patna Division on the management of LIC of India Patna for providing employment on compassionate grounds to the son of the deceased employee, Shri shyamal Kumar Banerjee, HGA ( Steno) is justified? If so, what relief is the son of the said deceased employee entitled to?”

2. After receipt of the reference, both parties are noticed. But appearing for certain dates, none appears on behalf of the workman. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 17 अक्टूबर, 2016

**का.आ. 2141.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ सं. 27/2008) को प्रकाशित करती है जो केन्द्रीय सरकार को 13.10.2016 को प्राप्त हुआ था।

[सं. एल-12012/03/2008-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 17th October, 2016

**S.O. 2141.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 27/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the Industrial Dispute between the management of Central Bank of India and their workmen, received by the Central Government on 13.10.2016.

[No. L-12012/03/2008-IR (B-II)]

RAVI KUMAR, Desk Officer

**ANNEXURE**

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW**

**PRESENT :** RAKESH KUMAR, Presiding Officer

**I.D. No. 27/2008**

Ref. No. L-12012/3/2008-IR(B-II) dated 17.03.2008

**BETWEEN :**

Smt. Prem Kumari W/o Late Sri Prakash Narain Tripathi.  
Village Durgapur (Bhiwani Muja) Post-Peeparpur.  
Distt.- Sultanpur (U.P.)

**AND**

1. The Regional Manager,  
Central Bank of India  
Regional Office, 73, Hazratganj  
Lucknow

### AWARD

1. By order No. L-12012/3/2002-IR(B-II) dated 17.03.2008 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Smt. Prem Kumari W/o Late Sri Prakash Narain Tripathi, Sultanpur and the Regional Manager, Central Bank of India, Regional Office, Lucknow for adjudication.
2. The reference under adjudication is:  

“WHETHER THE ACTION OF THE MANAGEMENT OF CENTRAL BANK OF INDIA, FAIZABAD IN TREATING LATE SRI PRAKASH NARAIN TRIPATHI TO HAVE VOLUNTARY RETIRED FROM SERVICE VIDE ORDER DATED 31.10.1994/15.11.1994 IS LEGAL AND JUSTIFIED, IF NOT, WHAT RELIEF SMT. PREM KUMARI WIFE OF THE CONCERNED WORKMAN IS ENTITLED TO?”
3. In brief as per the claim statement A-3, the petitioner has stated that her husband Sri Prakash Narain Tripathi was working as Sub Staff of Central Bank of India, Faizabad branch and expired on 17.02.2006. She has stated that her husband became ill, was under medical treatment and was on medical leave but the opposite party no.2 terminated his services illegally & arbitrarily through letter dated 31.10.1994/15.11.1994 under voluntary cessation of employment without any cause.
4. The applicant has emphasized that regarding her husband's legal medical certificate alongwith application which was submitted to the bank, was referred to Chief Medical Officer, Sultanpur, who had examined him and advised to grant leave from 24.11.1993 to 15.03.1994 by means of letter dated 19.03.1994 and 16.01.1996 sent by CMO, again the matter was referred by means of letter dated 04.05.1996 in order to verify the genuineness of the certificate issued by him, which was duly replied by the CMO vide letter dated 16.05.1996, copy of this certificate was sent by the Branch Manager to the Regional Office, Lucknow through letter dated 20.05.1996. Information regarding illness was communicated by workman through application and telegraphic message as well, medical certificate and fitness certificate was also submitted in due course but the Branch Manager did not permit him to join duties and informed that his case could be settled only by the Regional Office.
5. The petitioner has stressed that her husband was not given any charge sheet, nor any enquiry was conducted before terminating his service, service condition of the bank employees are governed by Settlement & Awards, opposite party no.2 was neither disciplinary authority nor appointing authority, impugned order is without jurisdiction, leave can not be refused in such cases where sickness is supported by medical certificate of doctor, and it could not be termed as unauthorized leave.
6. The petitioner has further stated that the Bank has no authority to treat the deceased husband of the applicant Voluntary Cessation of employment when the leave applications supported with Medical Certificates were already with the Bank. The deceased husband of the applicant, workman was an illiterate person as such he had no knowledge of technicalities of law and rules and as such was dependent on the others. The deceased husband of the applicant being ignorant person moved an application for conciliation before Assistant Labour Commissioner (Central) Lucknow which was registered as case No. Lko-7(1-16)/2000 and FOC was issued to Ministry of Labour, New Delhi.
7. It has been mentioned further that the CGIT, Lucknow in its award dated 01.07.2005 adjudicated the matter in favour of the bank, the claim was rejected because proper reference was not made by the Central Government and the workman's claim is not adjudicated on merit, second reference is not prohibited under law. With the aforesaid pleadings, request has been made to set aside the impugned order dated 31.10.1993/15.11.1994 passed by the opposite party management and to treat her husband in continuous service of the bank till his death, with all consequential benefits and post- retiral dues as well.
8. Several documents have been filed as per list C-5.
9. The management while strongly denying the allegations leveled in the claim statement, had filed written statement M-9 wherein it has been pleaded that the matter had been finally adjudicated by the CGIT, Lucknow vide award dated 01.06.2005, which has been notified also, further reference on similar is bad in the eyes of law and not tenable. The management has emphasized that the husband of the petitioner Sri Prakash Narain Tripathi was habitual absentee and remained unauthorized absent from duty for considerable time continuously as well as on different times despite several directions from the competent authority were issued, it created hindrance in smooth working of the branch, disciplined behaviour was lacking. The opposite party was compelled to issue letter dated 15.11.1994 as per the provisions of Bank, Bipartite Settlements were also followed but the claimant is trying to twist the matter in the garb of sickness and the same matter was earlier adjudicated by CGIT and it has been held that the workman worked

till 16.03.1994 only, and thereafter abstained from duty and he was rightly treated as unauthorized absentee since 05.05.1994 without any information.

10. The management has emphasized that earlier reference order dated 12.02.2001 issued by the Govt. of India was rightly answered by the CGIT in its award dated 01.07.2005 and it had the similar issue in the present reference, in such circumstances this reference is unwarranted, illegal and against the principle of natural justice as well. The management has prayed to reject the claim statement.

11. With strong denial of the pleadings taken in the written statement, rejoinder W-10 has been filed, and reiterated the pleas taken in the claim statement. Several annexures have been enclosed alongwith rejoinder.

12. The petitioner has filed her affidavit W-13 in evidence and she was thoroughly cross examined on behalf of the management. The bank filed the affidavit of its Chief Manager M-18 and further an affidavit M-32. Sri D.K. Sinha, Chief Manager of the bank was cross examined on behalf of the petitioner.

13. Copy of the Hon'ble High Court, Lucknow bench, Lucknow's order dated 03.03.2016 has also been filed before this Tribunal. During the proceedings of the case certain documents have been filed by the petitioner as per application W-25.

14. Arguments of both the parties have been heard and record has been perused thoroughly.

15. Admittedly, I.D 33/01 Sri Prakash Narain Tripathi vs Central Bank of India was decided by the then Hon'ble Judge/Presiding Officer vide award dated 01.07.2005. The matter referred by Govt. of India for adjudication, was pertaining to the following Schedule;

“WHETHER THE ACTION OF THE MANAGEMENT OF CENTRAL BANK OF INDIA, LUCKNOW IN NOT ALLOWING DUTY TO WORKMAN SRI PRAKASH NARAIN TRIPATHI W.E.F. 16.03.94 TREATING HIM TO HAVE VOLUNTARILY RETIRED FROM EMPLOYMENT IS LEGAL AND JUSTIFIED? IF NOT, WHAT RELIEF THE WORKMAN IS ENTITLED TO?”

16. The Tribunal, in the aforesaid industrial dispute, decided the issue in favour of the management and declared that the workman is not entitled to any relief. Learned AR for the management has argued before this Tribunal since the previous dispute has been adjudicated in its favour, therefore, taking into account the oral and documentary evidence adduced before the Court/Tribunal, the impugned action of the management in treating her husband of the petitioner, Sri P.N.Tripathi, is fully justified and legal. Learned AR for the workman while strongly refuting this statement, pleads that mandatory guidelines of the Bipartite Settlement have been ignored by the management. The authority which did not have right to retrench an employee/Sub Staff, must not have passed the impugned order.

17. Learned AR for the management has emphasized that the husband of the petitioner, Sri Prakash Narain Tripathi was a habitual absentee, and he remained absent unauthorizedly from the duty for a considerable time continuously as well as at different times, although specific directions were issued to him by the competent authority.

18. The petitioner has filed certain more documents alongwith an application W-25, which includes photo copy of the letter dated 06.06.2011 issued to all the Zonal Managers alongwith the list specifying the Disciplinary Authority and Appellate Authorities for the workmen(Award staff). The management has not contradicted the direction referred by the petitioner.

19. It is admitted fact to both the parties that vide letter dated 31.10.94/15.11.94, the services of the husband of the petitioner, were terminated as a result of Voluntarily Cessation of Employment. This letter has been issued by the Branch Manager. Any order issued by the competent authority/Regional Head/any other appropriate authority, has not been mentioned in this letter. It is well settled principle of law that under statutory provisions, duly delegated powers, can not be further delegated;unless and until there is specific valid Rule.

20. After having heard the intellect arguments of the both the Learned ARs of the parties at length, and close scrutiny of the record, it is inferred that the letter dated 31.10.93/15.11.94 issued by the management of Central Bank of India, Faizabad whereby husband of the petitioner, late Sri Prakash Narain Tripathi has been treated as voluntarily retired from service, is illegal and unjustified. Late Sri Prakash Narain Tripathi would be treated in service of the bank, till his death/normal age of superannuation whichever is earlier, and his wife petitioner Smt. Prem Kumari is entitled to the salary due to her husband during his service period upto his superannuation or his death whichever is earlier, the post retiral benefits and other dues, as per Rules. The management is directed to make payment to the lady petitioner/wife of the deceased employee, within 10 weeks, after date of notification of the award, failing which the management shall also be liable to pay interest @ 6% per annum, on the sum accrued.

21. Award as above.

16.08.2016

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 17 अक्टूबर, 2016

**का.आ. 2142.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूको बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 127/2001) को प्रकाशित करती है जो केन्द्रीय सरकार को 13.10.2016 को प्राप्त हुआ था।

[सं. एल-12012/70/2001-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 17th October, 2016

**S.O. 2142.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 127/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the management of UCO Bank and their workmen, received by the Central Government on 13.10.2016.

[No. L-12012/70/2001-IR (B-II)]

RAVI KUMAR, Desk Officer

### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/127/2001

Shri Sanjay Shrivastava,  
S/o Shivshankar Shrivastav,  
Peer Abbas Mazjid,  
H.No.16, Rathghat,  
Kamla Part,  
Bhopal (MP)

...Workman

#### Versus

Regional Manager,  
UCO Bank, Regional Office,  
E-5, Arera Colony,  
Bhopal (MP)

...Management

### AWARD

Passed on this 8<sup>th</sup> day of August 2016

1. As per letter dated 16-7-01 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12012/70/2001-IR(B-II). The dispute under reference relates to:

“Whether the action of the management of Regional Manager, UCO Bank, Bhopal in terminating the services of Shri Sanjay Shrivastav S/o Shivshankar Shrivastav w.e.f. 10-5-97 is justified? If not, what relief the workman is entitled for?”

2. After receiving reference, notices were issued to the parties. Ist party workman filed statement of claim at Page 3/1 to 3/4. Case of Ist party is he was employed as peon by 2<sup>nd</sup> party on 9-5-90. He was sincerely working with 2<sup>nd</sup> party from 9-5-90 to 9-5-97 continuously for 7 years. He completed more than 240 days continuous service during each calendar year. He was paid wages for working period. His services were permanently required. He was paid wages for working period. His services were permanently required. He was paid Rs.25, 40, 41, 50, 65, 70 per day. The details are given in para-3 of the statement of claim. That he was not served showcause notice or chargesheet during service period. On 10-5-97, his services were abruptly terminated without notice, retrenchment compensation was not paid to him, termination of his service is in violation of Section 25-F of ID Act.

3. That Ist party further contends that work of regular employee was restricted from him. He was not given permanent status and salary of regular employee. It amounts to unfair labour practice and victimization. On such ground, Ist party prays for his reinstatement with backwages.

4. 2<sup>nd</sup> party filed Written Statement opposing claim of Ist party workman. Preliminary objection is raised that Ist party is not covered as workman under Section 2(s) of ID Act, reference is not tenable. That Ist party was engaged for casual nature of work as per exigency. Ist party was free to attend his work on next day. The non-engagement of Ist party workman doesnot amount to retrenchment. 2<sup>nd</sup> party denies that workman was appointed on post of peon on 9-5-90. It is denied that workman was continuously working for period of 7 years. It is denied that workman completed more than 240 days working during each of the calendar year. Termination of workman in violation of Section 25-F of ID Act is denied. It is reiterated that workman was engaged as casual labour. He was paid wages for his working days. No muster roll is maintained for casual workers. No showcause notice or disciplinary proceedings are required to be initiated against casual workers. That disengagement of labour due to end of need is not covered as mischief or unfair labour practice. 2<sup>nd</sup> party further submits that the economic condition of Bank was required to be strengthen. The financial department of Reserve Bank imposed ban on further recruitments. It is reiterated that workman is not entitled to relief claimed by him.

5. Ist party filed rejoinder at Page 6/1 to 6/2 reiterating contentions in statement of claim.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the management of Regional Manager, UCO Bank, Bhopal in terminating the services of Shri Sanjay Shrivastav S/o Shivshankar Shrivastav w.e.f. 10-5-97 is justified?	In Negative
(ii) If not, what relief the workman is entitled to?"	As per final order.

### REASONS

7. The term of reference pertains to legality of the termination of services of Ist party workman. Affidavit of evidence is filed by Ist party. Workman has stated that he was engaged as peon on 9-5-90, he was paid wages Rs.25,40,41,50, 65 per day. The details are given in Para 2 of affidavit. That his services were terminated on 10-5-97. He is unemployed after termination of his services. As per letter dated 12-4-96, recommendation was sent for regularization of his services to Zonal Personal Officer. Bonus was paid to him for the period April 95 to March 97. From evidence of Ist party, documents Exhibit W-2, W-3/1 to 16 are admitted in evidence. Workman in his cross examination says document Exhibit W-1 was handed over to him for taking zerox copies. He has retained one copy with him. On document W-1, logo has appeared twice. Bank seal is not appearing on it. He denies that Exhibit W-1 was privately by him. He also denies suggestion that Exhibit W-1 is false document. W.r.t. W-2 in his cross-examination, workman says that it was written by Arvind Bharne working as clerk in the Bank. It doesnot bear signature of officer of the Bank. He denies suggestion that Exhibit W-2 is prepared by him. W.r.t. W-3/1, said voucher was prepared on 2-2-96. He denies that it was prepared one month in advance. In his further cross, Ist party workman says post was not advertised. He had not submitted application for the post. Appointment letter was not given to him. He was not interviewed. He has not produced voucher for the period 9-5-90 to 28-8-94. He denies that he was not working in the Bank during period 8-8-95 to 20-7-96. That he had submitted employment exchange card in the Bank. Said card is in the Bank. He submitted the marksheet. It is with the Bank. Twice he was paid bonus Rs.1484, 1137. The vouchers about bonus are not produced. Management's witness JagdishKumar filed affidavit of his evidence reiterated that workman was not appointed following recruitment rules. There was no vacancy. Workman was not appointed by the Bank. His attendance/ muster roll was not maintained. Ist party workman was engaged for limited period for particular work. His engagement came to end on completion of urgent work. Evidence of management's witness is further devoted on the point that documents Exhibit W-1,2,3 are fabricated. Rest of his affidavit is devoted on legal aspects. From evidence of management's witness, documents Exhibit M-1 to M-5 are admitted in evidence. In his cross-examination, management's witness says during 9-5-90 to 9-5-97, he was posted at Trivandrum. Ist party did not work under him. After 97, more than 40 branches of UCO Bank are opened in MP. More than 20 sweeper/ sub staff are appointed in UCO Bank after 1997. Workman was not paid retrenchment compensation

8. Learned counsel for 2<sup>nd</sup> party Shri Bhattacharjee relies on ratio held in case of –

Karur Vysya Bank Employees Union versus Presiding Officer, CGIT reported in 1988-LAB.I.C. 1746. His Lordship of Karnataka High Court dealing with Section 25-F of ID Act held services of person utilized intermittently to do certain work which arose only on certain occasions. Employment is of casual nature and

not connected with work of Bank namely Banking work connected therewith. Failure of employee to prove that he worked for 240 continuous days in a year. Provisions of Section 25-F are not attracted.

Learned counsel further relies on ratio held in case between Range Forest Officer versus S.T.Hadimani reported in 2002 SCC(L&S) 367. Their Lordship of the Apex Court dealing with Section 25-F held where workman claimed that he had worked more than 240 days preceding his termination was denied by employer, it was for claimant to lead evidence to that effect. Workman's affidavit was not sufficient evidence for that purpose.

In case between Surendra nagar District Panchayat versus Dahyabhai Amarsingh reported in 2006-SCC (L&S) 38. Their Lordship dealing with Section 25-F held facts must be proved by workman to claim protection under Section 25-F. Facts must be proved by workman to claim protection under Section 25-F. Facts must be proved that exists relationship of employer and employee, he is a workman under Section 2(s), (iii) establishment in which he is employed is an industry within meaning of the Act and (iv) he has put in not less than one year of continuous service as defined in Section 25 B under the employer. If anyone is missing, then Section 25-F will not be attracted.

9. 2<sup>nd</sup> party in its Written Statement has not pleaded that it is not covered as industry. 2<sup>nd</sup> party management is carrying banking business and certainly it is covered as industry under Section 2(j) of ID Act. Evidence of Ist party workman that he was engaged as peon, he was working in the Bank is not shattered from his evidence in cross examination evidence of workman is clear that he was doing physical manual work and casual workers are not excluded from Section 2(s) of ID Act. The Document W-1 shows that Ist party workman was employed in the Bank on 9-5-90. His case was referred by the branch to Divisional office, Bhopal vide letter dated 10-8-91 alongwith the photocopies of Employment Exchange Card, marksheet recording his confirmation as peon. Merely as logo of Bank is appeared twice, cannot be ground for rejecting said document. In Exhibit W-2 calculation of bonus amount is shown. In his cross examination, workman has said Exhibit W-2 was written by Arvind Bharve, clerk working in the Bank. Workman in his cross says he was paid bonus Rs. 1484/- and Rs.11237/- is corroborated by document Exhibit W-2. Copies of payment vouchers are produced Exhibit W-3 to W-16. The cross-examination was only w.r.t. W-3/1. Said voucher was prepared on 2-2-96 whereas period of working is shown 26/2 to 2/3/96. Voucher is not written by workman if any error is committed while preparing the voucher, it cannot be ground for rejecting the same. There is no error w.r.t. period of working and payment of amount. The documents voucher W-3/1 to 16 establish that workman was working till 9-5-97 more than 240 days preceding termination of his services.

10. Ist party workman had also filed affidavit of his evidence that he worked more than 240 days during each of the calendar years from 9-5-90 to 9-5-97. During the period April 95 to March 96, he was paid wages Rs.13650. During the period April 96 to March 97, he was paid wages Rs.1815/-. In his cross-examination, workman says that post was not advertised, appointment letter was not given to him, he used to sign on payment voucher. He was not signing attendance register, he was paid wages for his working days, he was not paid wages for holidays. Exhibit W-1 was written by management to Zonal Office. Management produced copy of attendance register Exhibit M-1. Name of Ist party workman is not appearing in it. The documents Exhibit M-2 pertains to empanelment and absorption of person engaged on daily wages. Said document Exhibit M-2 to M-5 are not relevant as the term of reference pertains to legality of termination of workman and not for regularisation. Management's witness Shri Sunil Kumar in his affidavit of evidence says workman was not employed as peon. There was no vacancy, post was not advertised. Ist party not completed 240 days service. his affidavit of evidence is by way of denial. His cross examination shows he was not working in the Malviya Nagar during May 90 to May 97. He has no personal knowledge. In para-14 of his cross-examination, management's witness says he doesnot know the workman. When evidence of workman is corroborated by document W-2, W-3, evidence of Sunil Kumar cannot be preferred by evidence of workman corroborated by documents. The evidence discussed is clear that workman completed more than 240 days continuous service preceding his termination on May 97. He was not paid retrenchment compensation, no termination notice was issued to workman. Termination of his service is therefore illegal for violation of Section 25-F of ID Act. For above reasons, I record my finding in Point No.1 in Negative.

11. Point No.2- In view of my finding in Point No.1 termination of services of workman is illegal for violation of Section 25-F, question remains for consideration is whether workman is entitled for reinstatement with backwages.

12. Learned counsel for management Shri Bhattacharjee on the point relies on ratio held in

Case of Pankaj Gupta and others versus State of Jammu and Kashmir reported in 2004(9)SRJ 103. Their Lordship of the Apex Court held no person illegally appointed or appointed without following procedure prescribed under law should not be continued in service.

Reliance is also placed in case between State of Karnataka versus Umadevi and others reported in 2006-SCC(L&S) 753. Present case pertains to termination of workman in violation of Section 25-F of ID Act. In Umadevi's case violation of Section 25-F of ID Act is not covered. The ratio cannot be beneficially applied to present case.



Shri Bhattacharjee also relied on ratio held in case of Secretary to Government School Education Department Chennai versus Govindaswamy and others reported in 2014(2) SCC (L&S) 108. Their Lordship held mere continuation of service by a temporary or adhoc or daily wage employee under cover of some interim orders of the court, would not confer upon him any right to be absorbed into service. even temporary adhoc or daily wage service for long number of years, let alone service for one or two years will not entitle such employee to claim regularization, if he is not working against a sanctioned post.

In present case, term of reference pertains to legality of termination. Regularization is not included in the term of reference. Therefore ratio held in above case cannot be applied to case at hand.

In case between BSNL versus Bhurumal reported in 2014(2)SCC(L&S) 373. Their Lordship dealing with termination in violation of Section 25-F of ID Act. Whether entails reinstatement with full backwages as a matter of right held ordinary principle of grant of reinstatement with full back wages when termination is found illegal is not to be applied mechanically in all cases and may be applied where services of a regular permanent workman are terminated illegally and or malafide and or by way of victimization unfair labour practice etc..

In case between Tapas Kumar versus BSNL 2014(15)SCC-313 ratio pertains ground while awarding compensation.

In above cited case, compensation 3 Lakhs was allowed in lieu of reinstatement. The evidence on record shows workman was working with 2<sup>nd</sup> party from May 90 to May 97 for 7 years. Considering period of working and workman not submitted application for the post, he was not interviewed, however he completed more than 240 days continuous service. His services were terminated without notice, compensation Rs. 1,50,000/- would be appropriate. Accordingly I record my finding in point No.2.

13. In the result, award is passed as under:-

- (1) The action of the management is not proper and legal.
- (2) 2<sup>nd</sup> party is directed to pay compensation Rs. 1,50,000/- to the workman.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 17 अक्टूबर, 2016

**का.आ. 2143.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 13/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 13.10.2016 को प्राप्त हुआ था।

[सं. एल-12011/33/2010-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 17th October, 2016

**S.O. 2143.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 13/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the management of Bank of India and their workmen, received by the Central Government on 13.10.2016.

[No. L-12011/33/2010-IR (B-II)]

RAVI KUMAR, Desk Officer

#### ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
JABALPUR**

**NO. CGIT/LC/R/13/2011**

General Secretary,  
Dainik Vetan Bhogi Bank Karamchari Sangathan  
F-1, Tripti Vihar, Opp. Engineering College,  
Sawer Road, Ujjain (MP)

...Workman/Union

**Versus**

The Branch Manager,  
Bank of India, Badodh branch,  
Shajapur Distt. MP

...Management

**AWARD**

Passed on this 22<sup>nd</sup> day of August, 2016

1. As per letter dated 23-2-2011 & corrigendum dated 30-5-2011 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12011/33/2010/IR(B-II). The dispute under reference relates to:

“Whether Shri Lalchandra Chouhan, Badli Sepoy is entitled for payment of difference of wages w.e.f. 0-11-01 to 19-9-06 as per the Bipartite Settlements? What relief he is entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party submitted statement of claim. Case of Ist party is that he was engaged as peon at Badodh branch of the Bank on 10-11-01. He was working 8 hours in a day. He worked more than 240 days in a year. His service record was satisfactory. Workman was paid wages Rs.10 per day which was increased to Rs.20,30,60 per day. Branch Manager was reimbursed the wages paid to him. His services were terminated in violation of Section 25-F of ID Act. He was not served with notice, retrenchment compensation was not paid to him. He raised dispute about termination of his services by separate reference. That from 10-11-01 to 19-9-06, he was working in the Bank. The Bipartite settlement are applicable. He is entitled to scale wages as per 7<sup>th</sup> & 8<sup>th</sup> bipartite settlement at Rs.2750 to 5850, 4060 to 7560. That State Bank of India and Karur Bank, Bank of Maharashtra have paid arrears of the pay scale wages to daily wage employees. That violation of bipartite settlement is punishable under Section 29 of ID Act. On such ground, workman claims difference of wages for the period 10-11-01 to 19-9-06. He also prays for interest on amount of arrears.

3. 2<sup>nd</sup> party filed Written Statement opposing claim of workman. That claimant is not member of the Union has no locus to raise dispute. 2<sup>nd</sup> party denies employer employee relationship. No ID exists between claimant and 2<sup>nd</sup> party Bank. 2<sup>nd</sup> party further submits that claimant is not covered as workman under Section 2(s) of ID Act. That employment of any person in industry is proceeded by appointment followed by written test, interview, selection. Workman was not appointed following recruitment rules. Ist party has not disclosed nothing regarding his employment. He has not produced documents in support of his claim. That claimant was not employed in Bank on regular basis. He was not appointed against sanctioned post therefore he cannot claim benefit of regular pay scale.

4. 2<sup>nd</sup> party further contends that Branch Manager in order to ensure smooth customer service and whenever there is a temporary increase in the work of casual nature and where the regular sub staff are on leave from duties are required to engage any persons from the locality, without going into the ensuring the eligibility criteria etc. such persons engaged are compensated by fair amount.. Branch Manager has no authority to appoint any staff. That for appointment in Bank, reservation in SC, ST, OBC is mandatory. The candidates are to be sponsored through Employment Exchange, such proceeding was not followed. Casual employees engaged by Branch Manager, wages were reimbursed to Branch Manager under Head of Miscellaneous charges. Daily wagger has no right to hold post. 2<sup>nd</sup> party reiterates that the reference is not tenable as there was no employer employee relationship. Ist party is not covered as workman. Sastry Award doesnot deal with payment of scale wages to temporary sub staff. Claimant never employed by the Bank in any cadre, on such ground 2<sup>nd</sup> party prays that reference be answered in its favour.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether Shri Lalchandra Chouhan, Badli Sepoy is entitled for payment of difference of wages w.e.f. 0-11-01 to 19-9-06 as per the Bipartite Settlements?	In Negative
(ii) If not, what relief the workman is entitled to?”	Workman is not entitled to any relief.

**REASONS**

6. The terms of reference pertains to whether Ist party workman is entitled to scale wages as per Bipartite Settlement. Though workman filed affidavit of his evidence, he not appeared for his cross-examination. Shri R.Nagwanshi, representative of workman/Union submitted application not to adduce oral evidence. Ist party produced documents along with application dated 8-12-2014. Documents produced by workman are not certified copies of

proved documents, therefore the documents could not be accepted as evidence as per Section 74 of Evidence Act. As such there is absolutely no evidence produced by Ist party.

7. 2<sup>nd</sup> party also not adduced evidence. Evidence of management is closed on 27-1-06. For want of evidence, I record my finding in Point No.1 in Negative.

8. In the result, award is passed as under:-

(1) Workman Lalchandra Chouhan is not entitled to scale wages as per Bipartite settlement.

R. B. PATLE, Presiding Officer

नई दिल्ली, 17 अक्टूबर, 2016

**का.आ. 2144.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूको बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 6/2000) को प्रकाशित करती है जो केन्द्रीय सरकार को 13.10.2016 को प्राप्त हुआ था।

[सं. एल-12012/215/1999-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 17th October, 2016

**S.O. 2144.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 6/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the management of UCO Bank and their workmen, received by the Central Government on 13.10.2016.

[No. L-12012/215/1999-IR (B-II)]

RAVI KUMAR, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

**NO. CGIT/LC/R/6/2000**

Shri Shashikand Awathare,  
S/o Shri Gangaram Awathare,  
R/o New Market, PO Dalli Rajhara,  
Tehsil Belod,  
Durg (MP)

...Workman

#### Versus

Asstt. General Manager,  
UCO Bank,  
Regional Office, F-5, Arera Colony,  
Bhopal (MP)

...Management

#### AWARD

Passed on this 12<sup>th</sup> day of August, 2016

1. As per letter dated 13-12-99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12012/215/99/IR(B-II). The dispute under reference relates to:

“Whether the termination of service of Shri Shashikant Awathare Ex daily rated casual employee of Kusumkasa branch of UCO Bank w.e.f. 5-5-97 by the management of UCO Bank is justified? If not, to what relief the workman is entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 2/1 to 2/7. Case of workman is that he was appointed as peon on 13-12-93 on vacant post. He fulfilled

qualifications for the post. He passed 8<sup>th</sup> standard, he belongs to Sc. He was continuously working during 13-12-93 to 15-5-97. He worked more than 240 days during any calendar year. That mala fide he was paid by voucher in name of fictitious persons. That he worked with devotion, his service record was excellent. He was assured of regularization in service.

3. Ist party further submits that Divisional Officer of 2<sup>nd</sup> party directed vide letter dated 7-2-94 to submit details w.r.t. daily wage workers employed in the Bank. In response to said letter vide letter dated 24-8-94, it was informed that Ist party workman was in employment since 13-12-93. It is submitted that instead of regularizing his services, he was illegally disengaged from 6-5-97. He was orally disengaged. No order of termination was issued to him. After termination of his services, he is unemployed. On such contentions, Ist party workman is praying for his reinstatement with consequential benefits including absorption in service.

4. 2<sup>nd</sup> party filed Written Statement at Page 5/1 to 5/5 opposing claim of Ist party. 2<sup>nd</sup> party denied that Ist party was appointed as peon on 13-12-93. It is denied that he was continuously working till 5-6-97. 2<sup>nd</sup> party denies that he was continuously working more than 240 days during respective calendar year. As per 2<sup>nd</sup> party Ist party was engaged on daily wages as per exigencies for contingent nature of work. He was not engaged against any vacant post. Ist party workman was paid daily wages at market rate. It is denied that services of Ist party workman are illegally terminated. Ist party workman has no legal right to continue in employment as he was not appointed following recruitment rules. Bank was directed to curtail manpower to avoid sustaining loss. If claim of Ist party workman is allowed, it will amount to back door entry. On such ground, 2<sup>nd</sup> party prays to reject claim of workman.

5. Ist party filed rejoinder at Page 7/1 to 7/2 reiterating his contentions in statement of claim.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the termination of service of Shri Shashikant Awathare Ex daily rated casual employee of Kusumkasa branch of UCO Bank w.e.f. 5-5-97 by the management of UCO Bank is justified?	In Affirmative
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

### REASONS

7. The term of reference pertains to legality of termination of services of workman. Ist party workman filed affidavit of his evidence supporting his contentions in statement of claim that he was continuously working from 13-12-93 to 5-5-97, he worked more than 240 days continuous service during each of the calendar year. His services are orally terminated without issuing notice is illegal. In his cross-examination, workman says when he approached Bank for work, one peon was promoted as clerk and his post was lying vacant and management engaged him on work. No selection test was conducted, any written or oral test was not taken, appointment letter was not given to him. He worked during period 13-12-93 to 5-5-97. He has produced dates of the vouchers in the list produced by him. The list does not bear signature or seal of the management. In his further cross, he says that he had submitted application for including his name in panel list as per circular of 1989. He was engaged on work in the year 1993. As Ist party workman is engaged in 1993, he is not fulfilling the conditions of circulars of 1989, it provides 390 days working preceding the said circular was issued. Ist party has not produced any other document, co-employee is not examined on his behalf. His evidence is not corroborated by any kind of evidence.

8. Management's witness Umeshchand Mishra filed affidavit of evidence supporting contentions of management in Written Statement. In his cross-examination, management's witness denies that Ist party had submitted application for absorbing as casual employee. That Ist party was intermittently working in the Bank. He has not seen documents about working in the Bank. He did not enquire from other Branch Managers whether workman was working in the branch during above said period. Workman was paid wages from contingency. Any daily wage employee working in the Bank was not regularized during the period.

9. Learned counsel for 2<sup>nd</sup> party Shri Bhattacharjee submitted bunch of citations along with his notes of argument. On the point of burden of proof lies on workman to prove 240 days continuous service. The employees appointed de hors the rules are not entitled for continuation of services. Reliance is placed in case of Pankaj Gupta and others versus State of J&K in 2004(9)SRJ 103, Karur Vysys Bank Employees Union versus PO, CGIT in 1988 LAB I.C.1746, Range Forest Officer versus S.T.Hadimani in 2002-SCC(L&S) 367, Surendranagar District Panchayat versus Dahyabhai Amarsingh in 2006-SCC(L&S) 38, Union of India and others versus Bishamber Dutt in 1997 SCC(L&S)

478, Secretary, State of Karnataka and others versus Umadevi in 2006-SCC (L&S) 753, Chief Administrator, Housing Board, Haryana versus Diwan Chand in 2016 1SCC (L&S) 288. Ratio held in above cited cases supports the argument advanced by Shri Bhattacharjee Advocate for 2<sup>nd</sup> party. As evidence of workman is not corroborated by any kind of evidence, his bare statement cannot be accepted to hold that he was continuously working for 240 days preceding termination of his services. For above reasons, I record my finding in Point No.1 in Affirmative.

10. In the result, award is passed as under:-

- (1) The action of the management is proper and legal.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 17 अक्टूबर, 2016

**का.आ. 2145.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 57/2008) को प्रकाशित करती है जो केन्द्रीय सरकार को 13.10.2016 को प्राप्त हुआ था।

[सं. एल-12011/91/2007-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 17th October, 2016

**S.O. 2145.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 57/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the management of Bank of India and their workmen, received by the Central Government on 13.10.2016.

[No. L-12011/91/2007-IR (B-II)]

RAVI KUMAR, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

**NO. CGIT/LC/R/57/2008**

General Secretary,  
Pichdavarg Karamchari Kalyan Parishad,  
F-1, Karambhoomi,  
Tripti Vihar, Opp. Engineering College,  
Ujjain (MP)

...Workman/Union

#### Versus

Managing Director,  
Bank of India, Head Office,  
Star House, Bandra Kurla(E),  
Mumbai

...Management

#### AWARD

Passed on this 22<sup>nd</sup> day of August, 2016

1. As per letter dated 17-3-08 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-12011/91/2007-IR(B-II). The dispute under reference relates to:

“Whether the claim of the Union that Shri Vinod Rathore has completed 240 days of service in a calendar year is legal and justified? If so, whether the action of the management of Bank of India in terminating his services w.e.f. 21-8-05 without following the provisions of Section 25-F of the Industrial Dispute Act, 1947 is legal and justified? If not, to what relief the concerned workman is entitled?”

2. After receiving reference, notices were issued to the parties. Statement of claim is submitted on behalf of workman by General Secretary, Backward Employees Council. Case of Ist party workman is on 25-4-0, he was engaged as daily wage peon, he was paid Rs. 40,50 to 60 per day. He was working 6 days in a week. He completed 240 days continuous service. his services were terminated on 25-11-05 without notice. He was not paid retrenchment compensation. His services are terminated in violation of Section 25-F of ID Act. Principles of last come first go was not followed. Termination of his service is in violation of Section 25-G,H of ID Act. After termination of his services, he was not given opportunity for re-employment with other persons were engaged by 2<sup>nd</sup> party. 2<sup>nd</sup> party has thereby violated Section 25-H of ID Act. On such ground, workman prays for his reinstatement with backwages.

3. 2<sup>nd</sup> party filed Written Statement opposing claim of workman. That claimant is not member of the Union has no locus to raise dispute. 2<sup>nd</sup> party denies employer employee relationship. No ID exists between claimant and 2<sup>nd</sup> party Bank. 2<sup>nd</sup> party further submits that claimant is not covered as workman under Section 2(s) of ID Act. That employment of any person in industry is proceeded by appointment followed by written test, interview, selection. Workman was not appointed following recruitment rules. Ist party has not disclosed nothing regarding his employment. He has not produced documents in support of his claim. Workman had not completed 240 days working in any calendar year. It is denied that Branch Manager Surpa.P.Mishra appointed workman on 25-4-01 on regular basis. It is denied that workman was paid wages Rs.40-60 per day. 2<sup>nd</sup> party submits that workman was engaged on casual basis occasionally whenever there was occasional need.

4. 2<sup>nd</sup> party further contends that Branch Manager in order to ensure smooth customer service and whenever there is a temporary increase in the work of casual nature and where the regular sub staff are on leave from duties are required to engage any persons from the locality, without going into the ensuring the eligibility criteria etc. such persons engaged are compensated by fair amount.. Branch Manager has no authority to appoint any staff. That for appointment in Bank, reservation in SC, ST, OBC is mandatory. The candidates are to be sponsored through Employment Exchange, such proceeding was not followed. Casual employees engaged by Branch Manager, wages were reimbursed to Branch Manager under Head of Miscellaneous charges. Daily wagger has no right to hold post. 2<sup>nd</sup> party reiterates that the reference is not tenable as there was no employer employee relationship. Ist party is not covered as workman. Sastry Award doesnot deal with payment of scale wages to temporary sub staff. Claimant never employed by the Bank in any cadre, on such ground 2<sup>nd</sup> party prays that reference be answered in its favour.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the claim of the Union that Shri Vinod Rathore has completed 240 days of service in a calendar year is legal and justified?	In Negative
(ii) whether the action of the management of Bank of India in terminating his services w.e.f. 21-8-05 without following the provisions of Section 25-F of the Industrial Dispute Act, 1947 is legal and justified?	Ist party failed to prove 240 days working preceding his termination w.e.f. 21-8-05. Violation of Section25(F) of ID Act is not proved.
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

### REASONS

6. Term of reference pertains to whether the claimant has completed 240 days continuous service. claimant has filed affidavit of his evidence. Claimant has stated that he was engaged by Branch Manager Shri Surya Prakash Mishra on 25-4-01 as peon. He was paid wages Rs.40 per day. Appointment letter was not issued to him. He was working 8 hours a day. Wages were paid to him from bogus bills of kerosene and petrol. Work of daftary, cash peon, peon was extracted from him. He was distributing dak when Mohd Sabir Khan was on leave. He was also doing sweeping work. He had worked more than 240 days during each of the calendar year. Reference about his termination is pending. In his cross-examination, claimant says he has separately raised dispute pertaining to his termination and claim for bonus. He was engaged by Branch Manager Shri Surya Prakash who was acquainted to him therefore he was engaged. He submitted written application, he was interviewed by Shri Surya Prakash. After his interview, he was engaged. His name was not sponsored through Employment Exchange. Bank has not given advertisement for post. Kashiram Verma Daftary was permanent employee. Sabir Mohd. Was appointed as peon. When both of them were on leave, he was working in their place. No intimation for interview was received by him. He was working for six days in a week. He was unable to tell the working days in April, May, December 2001. That he has kept record of his working days for his memory.

7. Management's witness Rajnish Sonkar filed affidavit of his evidence supporting contentions in Written Statement filed by management. He denied workman was engaged as peon. He denied Ist party had completed 240 days working in any year. In his cross-examination, management's witness claimed ignorance about vacant post during 2001 to 2005. He was working in the branch from February 2004 to end of 2004. He did not who was doing work of Daftary and cash peon and messenger during said period. There was generator in Ojhar branch. How much petrol, kerosene was required for generator, he was unable to tell. Manager was reimbursed wages. Signature of workman was not obtained on reimbursement vouchers.

8. Shri R.Nagwanshi has produced documents, certified copy of evidence of management's witness in R/35/09 and certified copies of Exhibit W-1 to W-4 in R/35/09.

9. Shri A.K.Shashi taken objection for admitting those documents as not legally proved. Section 80 of Evidence Act provides-

Whenever any document i.e. produced before any Court, purporting to be a record or memorandum of the evidence, or of any part of the evidence, given by a witness in a judicial proceeding or before any officer authorized by law to take such evidence or to be a statement or confession by any prisoner or accused person, taken in accordance with law, and purporting to be signed by any Judge or Magistrate or by any such officer as aforesaid, the Court shall presume –

that the document is genuine; that any statement as to the circumstances under which it was taken, purporting to be made by the person signing it, and that such evidence, statement or confession was duly taken

Section 74 defines public document. Section 74(1)(iii) includes public documents of public officers, judicial and regulation.

Section 77 of Evidence Act provides-

Such certified copies may be produced in proof of the contents of the public documents or parts of the public documents of which they purport to be copies.

Incidentally I may also refer to ratio relied by Shri A.K.Shashi in case between

Bhavnagar Municipal Corporation and others versus Jadeja Govubha Chhanubha and another reported in 2015(2)SCC(L&S) 513. Their Lordship held burden of proof, such continuous service lies on workman.

In ratio held in case between Haryana Urban Development Authority versus Ompal reported in 2007(5)SCC-742. Their Lordship held for violation of Section 25-F, relief of reinstatement is not automatic. Relief of reinstatement with backwages should not be granted automatically only because it would be lawful to do so. Grant of relief would depend on fact situation obtaining in each case.

Workman failed to establish he worked 240 days continuously. In view of Section 74(1)(iii), Section 77, 80 of Evidence Act, certified copies of proved documents in R/35/09 are admissible in evidence. Those documents be given separate exhibits. However the evidence of management's witness Rajnish sonkar had denied the engagement of workman on vacant post and completion of 240 days working during any of the year. His cross is also not helpful to establish claim of Ist party as name of workman was not written on voucher. If whole evidence is accepted, payment of wages to the workman from the amount of vouchers of petrol and Kerosene itself appears fraudulent act. Court cannot accept such evidence to support claim of Ist party that he was engaged on daily wages and continuously worked for more than 240 days. The evidence on record cannot establish workman worked more than 240 days preceding 12 months of his termination. He is not entitled to protection of Section 25-F of ID Act. Therefore I record my finding in Point No.1,2 in Negative.

10. In the result, award is passed as under:-

- (1) The workman failed to prove he worked more than 240 days service in a calendar year.
- (2) Action of management cannot be said illegal for violation of Section 25-F of ID Act as workman has failed to prove 240 days working preceding 21-8-05.
- (3) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 17 अक्टूबर, 2016

**का.आ. 2146.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 309/99) को प्रकाशित करती है जो केन्द्रीय सरकार को 13.10.2016 को प्राप्त हुआ था।

[सं. एल-12012/162/99-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 17th October, 2016

**S.O. 2146.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 309/99) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the management of Bank of India and their workmen, received by the Central Government on 13.10.2016.

[No. L-12012/162/99-IR (B-II)]

RAVI KUMAR, Desk Officer

### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

**NO. CGIT/LC/R/309/99**

Shri Rajiv Sharma,  
Flat No.2, Neelgiri Apartment, 241-B,  
Shahpura,  
Bhopal (MP)

...Workman

Versus

Zonal Manager,  
Bank of India,  
Zonal Office, MP Zone,  
Bank of India Bhawan, Jail Road,  
Arera Hills, Bhopal (MP)

...Management

### AWARD

Passed on this 25<sup>th</sup> day of August, 2016

1. As per letter dated 29-9-16 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-12012/162/99-IR(B-II). The dispute under reference relates to:

“Whether the action of the management of Bank of India in dismissing Shri Rajeev Sharma from service w.e.f. 29-4-95 is justified? If not, what relief the workman is entitled for?”

2. After receiving reference, notices were issued to the parties. Ist party submitted statement of claim. Case of Ist party workman is that he was employed as staff steno typist in Zonal Office, Bhopal. During his service tenure, his annual increments were increased time to time. Vide letter dated 22-12-89, he was suspended on ground of committing misconduct. The suspension order was again issued on 13-1-90 stating that CBI was investigating the matter. His suspension was continued pending departmental proceedings. That Ist party was under suspension from about 27 months. Chargesheet was issued to him on 6-3-92. The charges alleged against him that two pay slips along with counter files was stolen with Bank, payslip No.1123401 to 123500 from Zonal Office, Bhopal that he dishonestly stole payslip No. 1123432 getting the payslip filled in name of Madan Singh for Rs.82600/-from Shri Joseph, friend of workman. That workman forged the signature of Shri A.K.Andani Officer on said pay slip and presented it in Bhopal Central Cooperative Bank, Sultania Road branch, Bhopal. That Payslip No. 123432 dated 1-8-89 favouring Madan Singh drawn on T.T.Nagar branch was deposited in his Saving Account No. M/63/61. That after 14 months of chargesheet, Shri N.C.Bargaley Staff Officer, Zonal Office was appointed Enquiry Officer as per letter dated 8-6-93, workman had requested to furnish copies of relevant documents and final investigating report of CBI. Workman reiterates that his statement recorded by CBI officials on 15-2-90 should not be admitted in evidence. His statement was recorded under threat of his absence. His statement was recorded by CBI Officer. Thus he was subjected to threat of arrest, coercion and as per the dictation by the CBI officials. Under said circumstances, CBI official asked him to give statement as per dictation. That CBI officer reported whole matter to the Bank, that the workman in his reply had appealed that statement recorded by CBI could not be admitted as documentary evidence against him. It is reiterated that the copy of CBI report was not furnished to the workman. Management had submitted CBI report and not be filed.



That enquiry was conducted denying reasonable opportunity to cross-examine management's witness Joseph who was outsider. That the statement of witnesses recorded were recorded in presence of other witnesses putting quarry for cross-examination, Enquiry Officer had ordered cross-examination of Shri Parikh completed as the witness Joseph was in hurry. Request of Ist party workman for cross examination of management's witness on next date was rejected. Ist party reiterates that enquiry was conducted illegally. The findings of Enquiry Officer are perverse. That witness Kareem Andani had admitted that the lock of Almirah was not found broken. It is submitted that workman had no access to the payslips as the payslip used to be in custody of Mr. Kareem Andani. Ist party workman had denied his signature on pay slip. Ist party workman reiterates that evidence of management's witnesses cannot be established. He had forged signature on pay slip forging signature of Andani. Enquiry was conducted violating principles of natural justice. He was denied reasonable opportunity for his defence. Workman was kept under suspension for six years. He was not paid full subsistence allowance. Charges alleged against him could not be proved. His statement was forcibly obtained. Non-payment of pay and allowances after one year of suspension shows violation of the Bipartite settlement. On such ground Ist party prays for setting aside order of dismissal dated 29-4-95.

3. 2<sup>nd</sup> party filed Written Statement at Page 6/1 to 6/4 opposing claim of workman. 2<sup>nd</sup> party reproduced charges alleged against workman. That Ist party was in service of the Bank as steno typist, charge-sheet was issued to him on 5-3-92. Enquiry Officer was appointed, relevant documents relied by Bank were supplied to the workman. List of witnesses was also supplied to him. Enquiry was conducted allowing opportunity for his defence to the workman. Workman was allowed to cross-examine management's witness and to produce his defence evidence. After oral argument and written were submitted by Presenting Officer and workman, Enquiry Officer submitted his report. Ist party workman not participated enquiry as he was guilty conscious. That CBI Bhopal had registered RC.No.5(A)/90-JBR under Section 120B read with Section 511, 420, 468, 471 of IPC read with Section 13(2) and 13(1)(d) of Prevention of Corruption Act, 1988. It is denied that CBI had concluded that there is no need for filing criminal case. 2<sup>nd</sup> party Bank denies that confession of statement of workman obtained by CBI could not be considered as evidence. Statement was given by workman to CBI official. Voluntarily it is denied that his statement was obtained under threats, coercion. It is reiterated that enquiry was conducted following principles of natural justice allowing opportunity reasonable opportunity for his defence. 2<sup>nd</sup> party claims for rejection of claim.

4. Ist party filed rejoinder at Page 7/1 to 7/12 reiterating his contentions in statement of claim.

5. As per order dated 28-8-14, enquiry conducted against workman is found legal. Workman had not adduced evidence to support his contentions in statement of claim.

6. Considering pleadings on record and order on enquiry, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the misconduct alleged against workman is proved from evidence in Enquiry proceedings?	In Affirmative
(ii) Whether the punishment of dismissal imposed against workman is proper and legal?	In Affirmative
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

### REASONS

7. Point No.1,2- Enquiry conducted against workman is found legal. However note may be taken that Ist party had failed to adduce evidence in support of his contentions. Workman failed to adduce evidence on other issues. His evidence is closed on 19-11-14. Evidence of management's witness MW-1 M.K.Jain is on the point that he had worked in Zonal Office, Bhopal from June 88 to May 91. Workman Rajeev Sharma was working as staff steno in Zonal Office. MW-1 was receiving application for leave, payment of travelling, medical allowance, medical claims. That he used to leave applications of workman Shri Rajeev Sharma dated 20-2-89, 14-6-89, 31-8-89. Exhibit M-12-a,b,c in Enquiry Report. That the application submitted by CSE Rajeev Sharma bears his signature. MW-1 recognised handwriting on Exhibit M-10 is written and signed by Rajeev Sharma, CSE. Workman CSE declined to cross-examine MW-I. Evidence of MW-2 Abdul Kareem Amdani is on the point that M-6, M-2 pay slips used by zonal office, administrative service department for making payments on behalf of Bank. Pay slip No. 11234092, 1123430 & 1123433 to 1123451, it did not come to my notice that payslips countersigned bearing 1123431 & 1123432 were missing from pay slip. The past of missing counter files came to his notice when Mr. Shekhar who was then working in administration and service departmental informed him that while visiting to TT Nagar branch, he was told by

concerned staff that they have not issued entry of Rs.82,600/- of pay slip issued and paid by the branch. He could not notice the fact of missing counter files as no correspondence register was maintained at that time at Zonal Office. That payment upto Rs.10,000 was signed by him singly, payment above Rs.10,000, pay slip and counter files used to be signed by two officers. His further evidence is devoted on hearing from T.T.Nagar about supporting entry of Rs.82,600, he want payslip book and did not found payslip issued for Rs.82,600. Despite going through all the counter files, two counter files bearing No. 1123431 & 1123432 were missing. He did not find supporting voucher and sanction for payment to Madan Singh. Sanction for payment of Rs.82,600 to Shri Madan Singh. In his cross-examination MW-2 says custody of payslip used to remain with him after office hours. He did not find lock of Almirah broken nor any such incident was brought to his notice. Since payslip used to remain in custody of concerned clerk during day time and also whenever other department used to require to make payments, they used to call pay slip book. He was unable to tell who removed those pay slips along with counter files.

8. Evidence of MW-3 Joseph is on the point that payslips for amount of Rs.82,600/- was written by him on request of Rajeev Sharma. On his question, CSE had told him, his right hand was injured, right hand of CSE was in plaster. Evidence of MW-3 Joseph is not challenged. MW-4 R.S.Parekh in his evidence supports that statement of Joseph was recorded by CBI Officer in his presence. He identified CSE Rajiv Sharma. Evidence of MW-5 Vijay Shah is on the point items purchased as per order were changed by the concerned officer. After sanction of the bills, it were handed to the concerned clerk for preparation of Banker's cheque, set of vouchers prepared by clerk with the relative bills and Banker's pay slips prepared and initialed by the concerned officer were passed. In August 89 morning, Shri A.K.Amdani orally informed him about cheque for Rs.82,600 was paid by T.T.Nagar branch, credit voucher was not received, they had visited Cooperative Bank branch. On their request on writing, the amount was transferred to Suspense Account. His evidence remained unshattered. The evidence in Enquiry Proceeding is clear that Ist party had forged signature of Shri Amdani for payment of Rs.82600/-. The statement of CSE recorded by CBI Officer during investigation of crime is not admissible in view of Section 25 of Evidence Act. However the evidence of witnesses MW-1, 3 is sufficient to prove the charge alleged against workman. For above reasons, I record my finding in Point No.1 in Affirmative.

9. Point No.2- Ist party workman has not participated in reference proceeding, he not adduced any evidence. In view of my finding in Point No.1 charge proved against workman pertain to forgery of signature on pay slip is established. Punishment of dismissal against workman cannot be said disproportionate. I record my finding in Point No.2 in Affirmative.

10. In the result, award is passed as under:-

- (1) The action of the management dismissing Shri Rajiv Sharma is legal and proper.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer